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The Solicitors' Journal

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The Solicitors' Journal

(ESTABLISHED 1857.)

VOL. LXXIII. **Saturday, March 23, 1929.** No. 12

Current Topics: Lincoln's Law Books—Liability for Surveying a Yacht—Deduction of Trade Union Subscription from Seaman's Wages—Imprisonment for Debt—The American Leonardo Case—Damage by Poultry on the Highway—Postal Censorship—Questions as to Adultery 179

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Current Topics.

Lincoln's Law Books.

AMONG THE many lawyers who have occupied the proud position of President of the United States of America, none is so revered as ABRAHAM LINCOLN, who, from the humblest rank, rose to be a fearless and skilful advocate—a fit preparation for the great task to which his country called him in her time of direst need. Everything that possesses even the slightest association with him in his daily life is now greatly prized and carefully preserved. Among these mementoes which are treasured are several of the law books he used while in practice at Springfield. Several of these have come into the market and fetched tall prices from the mere fact that they were his. In 1914 his "Illinois Conveyancer," though "scorched by fire and rebacked," brought 500 dollars; so, too, did his copy of "Angell on Limitations," which, still later, when again it was offered for sale, was knocked down at a very much higher figure. Most readers are no doubt aware that it was the accidental purchase of a quantity of lumber, among which was a copy of "Blackstone's Commentaries," that first turned LINCOLN'S attention to the law. Communing with the great English commentator during his spare hours, LINCOLN became absorbed and entranced, so that eventually his life course was determined. But from an interesting article in the current number of the *American Bar Association Journal*, contributed by Mr. W. H. TOWNSEND, a member of the Kentucky Bar, we learn that earlier in his career LINCOLN, on the occasion of his being charged with an alleged infringement of a ferry privilege, had consulted the Revised Statutes of Indiana on the subject, and, apparently, to such good effect that the youthful defendant succeeded in getting the charge dismissed. Like other old statutes this particular volume contained not a few curiosities which doubtless made a strong appeal to LINCOLN in whom the sense of the ludicrous was keenly developed. Among the entries was the following: "Every person of the age of fourteen years or upwards, who shall profanely curse or damn . . . shall be fined not less than one nor more than three dollars for each offence; but the fines imposed on one person in one day for offending against the provisions of this section shall not exceed ten dollars." In other words, after the fourth oath, any person so inclined was free for the rest of the day to "cuss" as much as he pleased! This volume LINCOLN doubtless enjoyed, but he read much more after his legal appetite was once whetted by contact with BLACKSTONE, among his favourites being "Chitty's Pleadings," "Greenleaf's Evidence," "Story's Equity," all of which he studied to good purpose.

Liability for Surveying a Yacht.

A CASE of very considerable interest to yacht-owners was decided recently before Mr. Justice ROWLATT: *Humphery* v. *Bowers*, 73 SOL. J. 191. A yacht owned by the plaintiff was at his request specially surveyed for classification in Lloyd's Yacht Register, and the survey was conducted by two surveyors of the Society of the Lloyd's Register of Shipping, a certificate of fitness being issued in due course. The plaintiff, relying on his certificate and on the fact that the vessel had been surveyed, fitted out the vessel for a voyage and engaged a crew, but in the course of fitting out it was found that the mainmast was partly rotten and quite unfit for use. For the survey of the mainmast the defendant was responsible, and the plaintiff sought to obtain from him damages for negligence and breach of duty. In giving judgment for the defendant, Mr. Justice ROWLATT said that he had come to the conclusion that the defendant was guilty of gross neglect of duty, but that he was under no liability to the plaintiff. The plaintiff contended that the mere knowledge on the part of a sub-contractor employee that the contractee in the principal contract would suffer damage if the principal contract was not performed gave rise to a duty on the part of the sub-contractor employee to the principal contractee to take care that his contractual rights were not violated as a result of any default on his part, and that the damages for the breach of such duty were measured by the damages flowing from the breach of the principal contract. None of the facts of the case, his lordship said, warranted this contention. Thus, a situation which, to say the least of it, is very unpleasant for yacht-owners, has been created by this case.

Deduction of Trade Union Subscription from Seaman's Wages.

A FURTHER stage has been reached in the controversy noted in a Current Topic under the above title in our issue of the 5th January, 1929, 73 SOL. J. 2. In the recent case of *Dodd* v. *Charente Steamship Company, Limited*, at Liverpool, the complainant claimed 10s. as the balance of wages due for a voyage between Liverpool and Pernambuco. Before signing the ship's articles the complainant had signed a contribution form, authorising 10s. to be deducted as a contribution to the National Union of Seamen, and had received a blue card entitling him to go afloat. He later protested against the deduction, and refused to sign the master's book on returning to Liverpool, but the amount was withheld and paid to the Union. The learned stipendiary magistrate, Mr. STUART DEACON, held that the contribution

form was an assignment, which the complainant was at liberty to revoke before it was acted upon. The master had entered the 10s. in his book shortly after beginning the voyage, but this was not sufficient to constitute an actual payment of the amount, and the deduction did not actually take place until after the complainant had refused to sign the master's book at the end of the voyage. An order was therefore made for the 10s. to be paid forthwith, the distinction between this and the previous case being that, in the latter, the complainant was held to have ratified the deduction by signing the master's book on his discharge, and was therefore not entitled to claim a return of the amount.

Imprisonment for Debt.

MUCH AS we admire Sir EDWARD PARRY, we confess to being almost unmoved by his address to the Howard League for Penal Reform, as reported in *The Times* last week. We agree with him entirely in his assertion that the rich man who has not paid his debts escapes, only too often, through the comfortable arrangements of bankruptcy. We cannot, however, go with him when he says that "by enabling a screw system to exist the law is deliberately assisting undesirable creditors to blackmail those who have got into their toils," nor do we acquiesce in the use of such adjectives as "immoral, wicked and scandalous." If the law be properly administered, only those who have refrained from paying their debts in spite of having had the means to pay will find their way into prison. Sir EDWARD says that gaols should exist only for the incarceration of criminals, the fraudulent, and cheaters. True; and people who refuse to pay their just debts, when they could, may not unjustly be described as cheaters. We do not believe that judges and magistrates are failing to do their duty in requiring proof of means, although Sir EDWARD seems to have prided himself on having "collected more money and done less mischief" than most of his brother judges. And we wonder what the working man thinks of the statement that he (Sir EDWARD) "had never been much impressed by the argument that the reform [the abolition of prison for debt] would mean an end of credit for the working classes, for the things a working man liked best were paid for by cash—beer, cinemas, and the like."

The American Leonardo Case.

A TRIAL postponed for nine years, which then occupies seventeen days, and results in the disagreement of a jury after fourteen hours' deliberation, appears to indicate that the machinery of justice is functioning with some difficulty. In the case in question a Mrs. HAHN sued Sir JOSEPH DUVEEN for damages in respect of his statement that her picture "La Belle Ferronière" was not an original LEONARDO DA VINCI, but a copy. By reason of this pronouncement, she alleged, the Kansas City Art Institute declined to buy the picture, which it otherwise would have done. The form of action adopted by her has been loosely described as one of slander of title, but, as pointed out by BOWEN, L.J., in the judgment of the Court of Appeal in *Ratcliffe* v. *Evans*, 1892, 2 Q.B. 524, a somewhat similar case, this is not strictly accurate. "Such an action," said the learned judge (p. 527), "is not one of libel or slander, but an action on the case for damage wilfully and intentionally done without just cause or excuse, analogous to an action for slander of title. To support it, actual damage must be shown." This passage was quoted and approved by Lord ROBERTSON in the House of Lords in *Royal Baking Powder Co. Ltd.* v. *Wright, Crossley and Co.*, 1901, 18 R.P.C. 95, p. 103. In the same case Lord DAVEY said (p. 99) that to support such an action the plaintiff had to prove (1) That the statements complained of were untrue, (2) That they were made maliciously, (3) That special damage had been suffered. It does not appear from the report of the case whether Sir JOSEPH was advising the Kansas Institute when he gave his opinion, which would clearly bring the occasion into the privileged class. As to the truth or falsehood of the statement, the jury listened to a conflict of art experts comparable to that in *Belt* v. *Lawes* and *Whistler* v. *Ruskin*, both of which cases stirred British art circles to their depths in the later days of QUEEN VICTORIA. It is not surprising, therefore, that they wished to bring in a verdict of "reasonable doubt," but, as the judge promptly pointed out, they were there to make up their minds, a task which they then essayed in vain. In "A Jactitation Slander," *ante*, p. 132, the decision in *Duplany* v. *Davis*, 1886, 3 T.L.R. 184, was criticised, in that the statement that the plaintiff, an actor, had been a waiter, ought not to have been held defamatory. Possibly, however, the case might have properly succeeded if framed as one of the *Ratcliffe* v. *Evans* type. As presented, however, it was not so treated, for special damage was not proved.

Damage by Poultry on the Highway.

THE OWNER'S liability for the above was considered in the recent case of *Brown* v. *Bryson* at Newcastle County Court. The plaintiff was a doctor, and on returning to his car—after attending a patient—he was attacked by a cockerel, which was in the habit of attacking human beings, particularly male persons. The plaintiff beat off two attacks by swinging his bag, but on the third attack he fell to the ground and sustained a broken leg, which necessitated the employment of a *locum tenens*, and had caused some permanent disability. The defence was that there was no evidence that the bird was dangerous or had caused any previous injury, and that the plaintiff by swinging his bag had overbalanced and caused the injury to himself. His Honour Judge GREENWELL held that anyone attacked in such circumstances would naturally take steps to defend himself, and judgment was given for the plaintiff for £100 and costs. The above was an unusual application of the rule that the owner of a domestic animal, which causes damage by its conduct on the highway, is not responsible—unless he knew that the particular animal had some peculiar propensity to do such mischief. Individual specimens of a tame species may develop vicious propensities towards human beings, and if they are known by their owner to have done so, they fall into the class of dangerous animals, and their owner becomes liable for any damage they may cause.

Postal Censorship.

THE ISSUE whether the loss of Mr. D. H. LAWRENCE'S poems would be a national disaster is hardly one for these pages. The powers and methods of the post-office, however, are of concern to the public generally. Mr. LAWRENCE'S poems were intercepted in the English post *en route* from Italy to his publisher in London, and, in answer to a question in the House of Commons, the Home Secretary said that the typescripts were detected in the course of examination of the open book post from abroad. This open book post travels at special reduced rates, and the rules will be found in the current "Postal Guide," pp. 60-2. Senders are instructed that the packets must be made up in such a way that they can be easily examined, a direction which may be deemed to give proper notice that the Postmaster-General is at liberty to open and examine any package, for the reasonable purpose of ascertaining whether it complies with the rules. That he has such a power in the case of open packages is clearly laid down in the curious case of *Huth* v. *Huth*, 1915, 3 K.B. 32, a libel action in which, on the issue of "publication," the possibility either of an unauthorised person or a postal official taking a letter out of an open envelope was discussed. The power is exercisable to see whether the rules allowing of lower postal fees have been observed, but if on examination of a package a postal official finds that some other rule, e.g., that as to indecency, has been infringed, it seems right to allow action to be taken. The opening of closed letters is, of course, a much more serious matter, but, to prevent wholesale distribution of pornographic matter, the power must in the last resort

be reserved. That power is contained in s. 16 of the Post Office Act, 1908, and the criticism may be made that it is dangerously wide. It gives the nominated authority, namely the Treasury (see s. 82 (1)), carte blanche to make regulations to prevent the despatch or delivery by post of indecent matter, and would warrant regulations authorising the secret opening of any or every letter, for nothing less would absolutely ensure against the despatch or delivery of indecent matter. Section 82 (2) of the Act of 1908 provides that regulations shall be published, but the only published regulation which is relevant appears to be cl. 7 (1) (1) of the General Warrant of 1923, which merely repeats the veto implied in s. 16. As the law stands, therefore, the opening of any private letter appears to be an unrestricted *droit administratif*. The Home Secretary has just informed the London Public Morality Council that young people who send for pornographic matter from Paris or Berlin are warned. No doubt it is right that they should be so, but, if the result is not obtained by opening their letters, he should supply "further and better particulars." To prevent abuse, something akin to the American "fraud order" seems desirable, requiring a magistrate to authorise so great an interference with freedom as tampering with a private letter.

Questions as to Adultery.

THE CASE of *Moyse* v. *Moyse and Crick* (King's Proctor showing cause), 73 SOL. J. 192, illustrates a curious, and, we suggest, unnecessary survival of an old principle. The Evidence (Further Amendment) Act, 1869, s. 3 (see also s. 195 of the Supreme Court of Judicature (Consolidation) Act, 1925) enacted that "The parties to any proceeding instituted in consequence of adultery and the husband and wife of such parties shall be competent to give evidence in such proceedings, provided that no witness in any proceeding, whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery." In this case the petitioner had not disclosed his own adultery, but he said that he had not intentionally concealed it from the court. After pointing out the importance of solicitors advising their clients on the law with regard to this matter, HILL, J., said that, unfortunately, the law did not allow a judge trying divorce suits to ask petitioners if they had ever committed adultery. If a judge were allowed to do so, such difficulties as arose in the present case could be avoided, and there would probably be a full disclosure of past conduct. So far as police court hearings of matrimonial cases are concerned, the court rarely finds it necessary to consider the section quoted. The proviso has to be read as if "such" were inserted between "any" and "proceeding" (Stephen's "Digest of the Law of Evidence," Art. 109). Police court proceedings are instituted in consequence of adultery when it is sought to set aside an order made under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, on the ground of adultery. The wife, who is the defendant, may be asked by the court at the beginning of the hearing, whether or not she admits adultery, by virtue of s. 14 of the Summary Jurisdiction Act, 1848, and she is, of course, not bound to admit anything. If she goes into the witness-box it is generally in order to deny the adultery, in which case she may be cross-examined to show that she is guilty, or she may, of course, wish to admit it and to show that her husband's failure to pay conduced to it. But, so far as the husband is concerned, he cannot be asked questions tending to show that he has committed adultery unless he volunteers some statement in disproof of adultery that may have been alleged against him. On the principle that the court, whether it be the High Court or a bench of magistrates, ought to be able to inquire into the whole conduct of the parties if it is to do justice between man and wife, it seems high time that the restriction referred to was abolished.

Criminal Law and Police Court Practice.

A PARKING POINT.—Thefts of, and from, motor cars are so common that it is not surprising that makers have devised all kinds of contrivances to provide against them. Many cars can be locked up entirely, doors and windows, so that no one without the key can enter. Others have a simple arrangement for locking the gear-lever in neutral, so that no one can drive the car away. This, of course, does not prevent the theft of rugs and other articles from inside the car. It is, however, preferable from the point of view of compliance with regulations, as was shown by two cases at Marylebone Police Court last week.

Two motorists were summoned for failing to observe the regulations made by the Ministry of Transport by leaving their cars in a "park" at King-street so that they could not be moved by man-power. A constable said the windows were closed, the doors locked, and the brakes on.

The learned magistrate, evidently a driver himself, characterised it as "an abominable thing." "It has happened to me," he is reported as saying, "and it may happen to anybody. You find the cars next to you locked up, and you cannot move or get out until the owners are found."

A defendant said that his object was to safeguard the contents of the car, to which the magistrate replied that in that case the brakes should be put outside. Costs were imposed.

Even outside brakes do not entirely meet the case. If cars are to be manœuvred by manual power from outside it may be necessary to get at the steering-wheel also. The only conclusion one can come to is that parking in streets is really a concession in itself, and people must accept it with its necessary restrictions, or else either resort to garages or leave someone in charge. And, finally, insurance covers a multitude of losses.

MUCH ADO.—Advocates of an improved system of poor prisoners' defence and its wider employment will not fail to note an incident that took place recently at the Middlesex Sessions. A prisoner selected a certain barrister to defend him, whereupon another member of the Bar seems to have taken the point that he was not entitled to accept a dock brief because he was not a member of the Middlesex Sessions Bar Mess. The learned chairman did not agree with the protest, but the counsel first selected said he would withdraw, and leave the Bar Council to decide.

Then comedy stepped in. The prisoner, "amid laughter," next selected the barrister who had made protest, who naturally said this was most unfortunate in the circumstances. A little later he said he had now learned that the first barrister was a member of the North London Sessions and therefore had a right to take a dock brief at the Middlesex Sessions. So, in the end, the brief was handed to the counsel first chosen by the prisoner.

The rules of the Bar may be most estimable from the point of view of the Bar, and no doubt they were framed after due consideration. The general public, however, which sometimes accuses the Bar of being the closest and strictest of all trade unions, gets a little impatient with minor incidents reported in the daily press, such as the question whether a barrister in court is or is not justified in removing his wig so as to avoid having to accept a dock defence; whether counsel ought to leave the court to avoid them; or what is the effect of membership of a particular mess. A better and more comprehensive system of poor prisoners' defence, with the assignment of solicitor and counsel at an earlier stage, would do a great deal to obviate these rather exasperating occurrences.

BASTARDY ORDERS FOR MARRIED WOMEN.—In a recent undefended divorce suit, the respondent wife had obtained a bastardy order against the co-respondent. In reply to a comment by Mr. G. TYNDALE, Mr. Justice HILL

remarked: "I don't see how, since the *Russell Case*, a married woman can get a bastardy order." This *obiter dictum* is somewhat startling. Long before any departure had been made from *Goodright's Case*, 1777, 2 Cowp. 591, on which the House of Lords in 1923 founded their decision in *Russell* v. *Russell*, 68 Sol. J. 682, the question had been decided. The old cases of *R.* v. *Reading*, 1734, Cas. temp. Hardwick 79; *R.* v. *Luffe*, 1807, 8 East 193; *Cope* v. *Cope*, 1833, 1 M. & Rob. 269, and *Legge* v. *Edmonds*, 1855, 25 L.J. Ch. 125, decide that in a case of bastardy a married woman may, when the fact of her husband's non-access has already been proved by independent evidence, confess her adulterous connexion with another person, and thus enable the justices, in the event of her testimony being corroborated in some material particular, to make the order of maintenance. This exception to the general rule of exclusion laid down in *Goodright's Case* is founded on necessity; since the fact to which she is permitted to testify is probably within her own knowledge, and that of the adulterer alone. In other words, there are two separate issues before the justices, the first being whether the married woman is a "single woman" within the Bastardy Acts, and this must be proved by witnesses other than the complainant. When this has been proved, the second question is whether the evidence of the complainant that the defendant is the father of her child has been corroborated in some material particular to their satisfaction. This view of the case was accepted by the King's Bench Division in *Brown* v. *Leech*, 1925, 132 L.T. 205, although in that particular case the order was quashed on the ground that the married woman's evidence had been admitted to prove non-access.

Advocacy at Courts-martial.

By J. F. COMPTON MILLER, M.A. (Oxon), Barrister-at-Law.

The following notes, it is hoped, may be of use to solicitors called upon to defend accused persons at military and Air Force courts-martial.

Courts-martial generally.

An advocate appearing before a court-martial may rest assured that there is no more impartial tribunal in the world. The members of the court, however, though usually excellent judges of fact, occasionally go wrong in law, with the result that the proceedings are ultimately quashed in favour of the accused.

For all practical purposes there are now only two kinds of courts-martial: general courts-martial and district courts-martial. A commissioned officer can only be tried by the former. The tribunal is composed of commissioned officers of varying rank and number, assisted in a general court-martial by a judge-advocate, who is, wherever possible, a trained lawyer, and usually, at home, a member of the staff of the Judge-Advocate-General. A judge-advocate may be appointed to serve at a district court-martial when the charge is of a complicated or otherwise of a difficult nature.

Text-books to which it may be useful to refer are: "Manual of Military Law" (1914), containing the Army Act, with notes; Rules of Procedure (1926); King's Regulations (1928), and Banning's "Military Law," which, in addition to providing an easy commentary on the subject, reproduces passages from older and less accessible text-books.

The law administered by courts-martial is (1) military law, in the sense of the law governing military offences created by the Army Act, and (2) the criminal law of England. (See Rules of Procedure (abbreviated R.P.), 73 and 74.) The court, on matters of evidence, and generally, models itself upon the decisions of the Court of Criminal Appeal.

Preliminary Proceedings.

Before the case has reached the trial stage preliminary investigations leading to the formulation of the charge have taken place, in the ordinary course, as follows:—

In the first instance every suspected offence, with which a non-commissioned officer or soldier may be charged, will be investigated in his presence by his immediate commander, e.g., squadron or company commander. The matter then goes before the commanding officer, who hears the witnesses against the accused. Then the accused is asked what he has to say in his defence, and any witnesses of his are heard. Assuming the commanding officer to have decided that the case must be tried by court-martial, he remands the accused for trial and orders a summary of evidence to be taken. This consists in reducing to writing the evidence of the previous witnesses and any additional witnesses. The evidence will be on oath if the commanding officer so directs or the accused so demands, and the evidence of each witness will be read over to him, and signed by him. The accused is present, and may put questions to the witnesses called against him. After all the evidence against the accused has been given he will be invited, with the prescribed caution, to make a statement. He may not be cross-examined upon it, and no evidence will be admitted at his subsequent trial of any statement he may have made at the taking of the summary of evidence before such caution was given. (See R.P., 4E.)

Where a commissioned officer is to be tried the taking of a summary of evidence is not necessary, unless the officer demands it, but an abstract of the evidence to be adduced against him must be delivered to the officer at least twenty-four hours before the trial.

A charge sheet is next prepared formulating the proposed charges. The rules to be observed in framing these are set out in R.P., 11-13. The following is a specimen charge sheet alleging drunkenness.

CHARGE SHEET.

The accused, Lieutenant Sodden of the Blankshire Fusiliers, an officer of the Regular Forces is charged with—

1st Charge, Army Act, s. 19. Drunkenness

in that he, at Blanktown, on the 16th day of March, 1928, when on duty, as Orderly Officer, was drunk.

2nd Charge (alternative), Army Act, s. 40. Conduct to the prejudice of Good Order and Military Discipline.

in that he at Blanktown, on the 16th day of March, 1928, became unfit to perform his duties as Orderly Officer by reason of previous over-indulgence in alcoholic stimulants.

The charge-sheet must be signed by the accused's commanding officer. This, together with the summary of evidence is forwarded to the officer whose duty it is to convene a court-martial, on being satisfied that a *primâ facie* case has been made out against the accused.

Preparing the Defence.

The accused, pending trial, is given every proper opportunity of preparing his defence. There are several kinds of legal assistance open to him at the trial. (See R.P. 87-93.) He may be represented by "counsel," which term includes defence by a solicitor alone as well as by counsel instructed by solicitor or by a "defending officer," or he may be assisted by a "friend of accused." A defending officer has the same rights, duties and obligations as counsel, but the functions of a "friend of accused," are restricted to advising the accused; he may not address the court. The accused or his advisers may consult the judge-advocate as soon as one is appointed, upon any question of law.

Trial.

A defending barrister or solicitor should appear robed at the trial. At the opening of the court, first the order convening it is read with the names of the officers appointed to serve. Now is the time for the accused to object to any members before they are sworn. The regulations as to challenge are to be found in R.P. 25. After the court is sworn, the accused is arraigned, and the charges to which he is required to plead

read over to him. Now is the time for him to claim a separate trial of any charge or make his objections, if any, to the charges or offer any plea to the jurisdiction or plea in bar. These the members will consider in closed court. They must adjudicate upon them, allowing or disallowing them, or they may adjourn the court to report to or consult the convening authority, or, in dealing with a special plea, to the general jurisdiction of the court they may record a special decision and proceed with the trial. Where the court finds a plea in bar proved, they record their finding and notify it to the confirming authority, and proceed to the trial of any other charges which are maintainable. In the event of the confirming authority not upholding the plea in bar, the court may be re-assembled and proceed as if the plea had been found not proved. (See R.P. 32-36.)

The proceedings thereafter follow the usual course of criminal proceedings, except that there is a practice, when there is no shorthand writer, and sometimes when there is, of reading the evidence of each witness to him before he leaves "the box," and inviting him to make any explanation or correction. (See R.P. 83.) At the conclusion of the case the judge-advocate will, unless he and the court think a summing-up unnecessary, sum up in open court the whole case to the court. The court will then proceed to consider its findings in closed court, the judge-advocate remaining in closed court and advising them.

If the findings are "Not Guilty" on all the charges, those findings will be announced in open court and the prisoner immediately released. A finding of "Not Guilty and honourably acquit him of the same," may be recorded, when the accused leaves the court without a stain on his character. All findings of not guilty upon any charges upon which the court acquits, must be announced in open court.

If there is a finding of "Guilty" on any of the charges, the court will proceed to take evidence as to the accused's character and service, the accused being given an opportunity to rebut this evidence and his counsel to address the court in mitigation of sentence. The court will then be closed for consideration of the sentence, which is recorded on the proceedings but not announced in open court.

After Trial.

The record of the proceedings is sent to the confirming authority who, after reading the written record, exercises its discretion to confirm or refuse confirmation or send the proceedings back to the court for revision. Promulgation of the proceedings is carried out in the manner directed by the confirming authority, and if no direction is given, according to the custom of the service.

There is no appeal by the accused against the findings of a court-martial, except by petition or complaint under K.R. 666, or ss. 42 or 43 of the Army Act, but he is provided with a safeguard in that all technical errors vitiating the proceedings will be discovered in the office of the judge-advocate general, whose duty it is to review all proceedings and to see that any irregularity at the trial shall result in the quashing of the proceedings.

Defences in these courts are worth the metal of the most talented and experienced advocate. He must be skilful enough to know when to refrain from making a "lawyer's point," which will only be appreciated by the judge-advocate, and may rouse a feeling of distrust against himself and consequently his case in the minds of the laymen composing the court, and yet not to miss a single objection to any part of the proceedings which might be construed to bear unfairly on the accused man. Heated discussion with the court is to be deprecated, but an objection should be quietly persisted in, so that a record of it is made by the President, or is entered by the judge-advocate on his note, or appears on the shorthand note, as the case may be, thus ensuring that the objection will come before the notice of the authority reviewing the proceedings.

Onus of Proof of being Licensed.

THE Commissioner of Police for the Metropolis has recently sent a circular letter asking magistrates and police officers to dispense with the attendance of a Metropolitan Police officer to prove the non-possession of a licence by the defendant until it appeared that it was necessary for such an officer to attend, and suggesting that where a defendant either does not attend, or disputes the charge that he was unlicensed, an adjournment should be granted to enable the Metropolitan Police to come. The requirement of this kind of proof of a negative averment in the information appears to be unnecessary. If the charge is, for instance, one of driving a motor car without a driving licence, a properly drawn information will allege that the defendant did unlawfully drive a motor car on a certain public highway, he not being duly licensed so to do. The old cases of *R.* v. *Clarke*, 1799, 8 T.R. 220; *R.* v. *Turner*, 1816, 5 M. & S. 208; and *R.* v. *Burdett*, 4 B. & Ald. 140, are summarised in "Powell on Evidence," 8th ed., p. 264, that in every case the *onus probandi* lies on the person who wishes to support his case by a particular fact which lies peculiarly within his own knowledge, or of which he is reasonably cognisant. It is pointed out in *R.* v. *Turner* that it is easy for him to prove it, but often impossible for the other party. *R.* v. *Hanson*, 1821 (mentioned in "Paley on Summary Convictions," 9th ed., p. 326), decided that the informant was not bound to give evidence to negative the existence of a licence where the charge was selling ale without a licence. In that case ABBOTT, C.J., said that he concurred in all the observations upon which the judgment of the court was founded in *R.* v. *Turner*. In the case then before the court the party would sustain not the slightest inconvenience from the general rule, as he could immediately produce his licence, while if the case were taken the other way, there would be considerable difficulty and inconvenience in the proof.

The editors of "Taylor on Evidence," 11th ed., at p. 285, express their doubts whether at the present day these old cases would be followed, but state that where the facts lie peculiarly within the knowledge of one of the parties very slight evidence may be sufficient to discharge the burden of proof resting on the opposite party.

Since this was written, Mr. Justice SWIFT in *R.* v. *Scott*, 1921, 86 J.P. 69, following the decision in *R.* v. *Turner*, held that where a defendant was charged with supplying and offering to supply a dangerous drug to an unauthorised person contrary to the Dangerous Drugs Act, 1920, and the regulations made thereunder, the onus of proof that he had a licence or authority rested with the defendant. Express provision to this effect was subsequently made by s. 2 (3) of the Dangerous Drugs and Poisons (Amendment) Act, 1923. Even if the doubt expressed in "Taylor on Evidence" is well founded, the witness who proves the driving need only say that the defendant has no driving licence his knowledge being merely derived from inquiries instituted by someone else, and the onus of proof will be thrown on the defendant. If, on the other hand, *R.* v. *Scott*, *supra*, was properly decided, even this "very slight evidence" is not necessary. In either event the attendance of a Metropolitan Police officer will not be required.

HALIFAX BUILDING SOCIETY.

The report of the Halifax Building Society, covering the year ended 31st January last, refers to considerable increases both in funds and membership, and the opening of no less than sixteen new branches. The total assets of the society were £54,155,040, and the reserve fund, after provision for interest and bonus, £1,689,239, while the gross profit, after payment of all expenses and income tax, is stated to be £2,459,564. Appropriate reference is made to the great loss sustained by the society by the death of Sir William Ramsden, solicitor, in October.

A Conveyancer's Diary.

Vesting of Trust Capital—postponement.

The postponement of the vesting of trust capital is a problem which has engaged the attention of lawyers for many centuries. The law has been against the practice, and considerable ingenuity has, from time to time, been shown in evading or surmounting the obstacles put by statute and common law in the path of testators and settlors who wish to show their caprice in this manner. We say caprice, advisedly, for there can be no shadow of reason for a long postponement of vesting. It is sometimes desirable for a testator to make provision against a wasteful dispersion of the estate by certain beneficiaries, but this can be effected by means of a settlement, more especially one which creates a discretionary trust, without inordinate postponement of vesting. It is obviously unjust that property should be so tied up that its absolute enjoyment is postponed for many generations. The rule against perpetuities did much to prevent this undesirable practice, and the Accumulations Act, 1800, now replaced by the L.P.A., 1925, s. 164, prevented accumulations of income for a longer period than one of four allowed by the Act, namely :—

(*a*) The life of the grantor or settlor ;

(*b*) A term of twenty-one years from the death of the grantor ;

(*c*) The minority of any person living or *en ventre sa mère* at the death of the grantor ;

(*d*) The minorities of the persons who under the limitations of the instrument directing the accumulations would, for the time being, if of full age, be entitled to the income directed to be accumulated.

This restriction however, does not apply to accumulations directed for the payment of debts or for raising portions for the children, or remoter issue, of the grantor, or of any person interested under the instrument directing the accumulations, or to any directions as to the accumulation of the produce of timber or wood. By s. 165 the period for which surplus income may be accumulated during a minority under the Trustee Act, 1925, s. 31 (2), is not to be taken into account in determining the periods for which accumulations are allowed to be made under s. 164. Under s. 166, accumulations of income for the purchase of land are further restricted.

An offshoot of the rule against perpetuities is that known as the rule in *Whitby* v. *Mitchell*, 44 Ch. D. 85, which prohibited the limitation, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of an unborn person. This rule was really one against remoteness and not one against creation of a perpetuity, and, as respects instruments taking effect after 1925, it has been abolished by the L.P.A., 1925, s. 161, but it served to show the general abhorrence of the law against provisions postponing the enjoyment of property to persons unborn, and unthought of at the death of the grantor.

The Accumulations Act has effectively prevented long periods of accumulation of income, but the rule against perpetuities, which has never been consolidated by statute, has been evaded by many devices, the most notable of which is the formula prescribing the restriction period as ending twenty years after the death of "the last survivor of all the lineal descendants of Her late Majesty Queen Victoria" living at the testator's death.

This formula has received such severe condemnation from Lord Hanworth, M.R., Lord Justice Lawrence and Mr. Justice Astbury, in *Re Villar*, 1928, Ch. 471 and 1929, 1 Ch. 243, that it is meet to be considered whether or not the formula ought to be discontinued in practice, if necessary being prohibited by statute.

When this formula was invented Queen Victoria's issue, though numerous, did not exceed the number of the issue of many persons living at that time, and as the birth and death of each of them was a state event it was thought that no difficulty would ever be experienced in ascertaining how many and which of them were alive at any given date. Since this time many things have combined to change this state of affairs and few of the testators who, with so little thought, direct that their capital shall be so tied up, could tell how many of Queen Victoria's issue were living at the date of the will, much less at the date of their deaths.

Many of the descendants of Queen Victoria are private individuals, before long some may even be commoners, some are alleged to have been killed in Russia under such circumstances that it is most improbable that their deaths will ever be strictly proved.

In these circumstances, we think, it is high time that this formula should be relegated to the limber where rest the remains of fines and recoveries and other outworn devices for evading the law.

In this matter a great responsibility rests on the legal profession.

Testators seldom introduce Queen Victoria's name into the instructions for their wills. They direct their wills to be drafted so as to tie up their property for as long a period as possible, leaving it to the draftsman to devise the method. Little do they think that they are not only depriving their immediate descendants of some material benefit, but they are also providing, at the expense of their remote descendants, with whom presumably they have no quarrel, a rich harvest for the College of Arms, private inquiry agents, newspapers, and others who will be entrusted with the long and probably fruitless task of collecting evidence as to whether or not the restriction period has expired.

Landlord and Tenant Notebook.

By S. P. J. MERLIN, Barrister-at-Law.

LANDLORD AND TENANT ACT, 1927.

THE FIRST YEAR'S WORKING OF THE ACT—RESULTS OF CASES BEFORE THE REFEREES AND THE COURTS.

Although there have been during the last year an enormous number of notices of claims served by tenants on their landlords in respect of compensation for loss of goodwill under s. 4, or for a "new lease" under s. 5 of the Act, it is a matter for surprise that there have so far been comparatively few cases tried out before the fifty-eight referees appointed to deal with them, and still fewer have as yet come into the public eye in the County Courts or High Court.

One surprising feature of the first year's working of the Act is that very little advantage has been taken by tenants of the provisions of ss. 1, 2 and 3, which give business tenants such large rights to compensation for the *improvements* and alterations they may desire to make in their holdings during their leases. It is, however, conceived that as and when these rights become better known and appreciated at their real value, that recourse will frequently be had to these sections by lessees who require to instal, e.g., new shop fronts, or garages, or such like costly additions and improvements to their premises. Stated briefly, the tenants' rights in respect of such improvements as they may make in their premises are that they are entitled to be paid, on quitting the holding, "the net addition to the value of the holding as a whole which may be determined to be the direct result of the improvement."

Dobbin v. *Ogden & Owen.*

The first case under the Act to come up before the Divisional Court, by way of an appeal from a county court, was the case of *Dobbin* v. *Ogden & Owen*, 73 SOL. J. 143. The short point involved was : whether a notice of claim for a new lease under s. 5, served by the tenant on the landlord

on the 23rd March, 1928 (two days *before* the Act came into operation), was a good and valid notice? It was held by the Divisional Court, Shearman and Acton, JJ., that the said notice was ineffective and invalid. Notice given before the Act was in operation was, said the court, "no notice," and was an attempt to apply the Act to premises to which it did not apply at the moment. The objection to the validity of the notice was first taken by the judge of the county court. That, however, did not make any difference in the result, and the Divisional Court, inasmuch as the objection went to the jurisdiction of the court to entertain the claim, and was one which could not be waived by act of the party. The above case, while it is of temporary interest and importance, is obviously not one which will have any permanent effect on the interpretation of any of the more important provisions of the Act. While this article was going through the press this case was heard in the Court of Appeal, and is now reported in this issne (73 Sol. J., 190), that the appeal of the tenant has been allowed on the grounds that the notice was sent on the 23rd March 1928, that it was in proper form, that it had been given within the period prescribed, and that the landlord had it in his possession when the Act came into force. Although there was old authority for the Divisional Court judgment to the effect that nothing could be validly and effectively done under a statute before the date it came into operation, still most minds would agree that with regard to *notices* there might be an exception, as the essential function of a notice is to inform duly the mind of the recipient of the intention of the other party, and it does not seem sound sense that a notice received on a Saturday should not continue effective in its said function on the next day, Sunday. The notice in question was a day too long and not a day short.

With regard to those numerous cases where the leases expire on the 25th March, 1929, the opinion has been widely held that the *only* day upon which notice could be duly served under the Act was Sunday the 25th March, 1928, the day when the Act came into operation. Fortunately for the tenants affected, the Sunday Observance Acts do not apply to landlord and tenant notices, and it has been held that service of a notice to quit effected on a Sunday was a good and valid notice (*Sangster* v. *Noy*, 16 L.T. Rep. 137). Having regard to the doubtful position, and the urgency of the matter, a considerable number of practitioners took the precaution of serving three separate notices, one each on the 24th, 25th and 26th of March, 1928, trusting that one or other of them would be held valid by the most technical of tribunals.

Perkin v. *B. D. C. Ltd.*

This case raised the question as to whether reversionary leases granted by a landlord to a tenant prior to the 31st March, 1927, were "reversionary leases" within s. 15, sub-s. (3) of the Act, which, as such, would exonerate the landlord from liability to pay compensation or grant any further new lease under s. 5. In the said s. 15, sub-s. (3), it is provided that: "Where a landlord who would have been liable to pay compensation for goodwill under this part of this Act had, before the 31st March, 1927, granted or agreed to grant a reversionary lease, commencing on or after the termination of the then existing tenancy, the landlord shall not be liable to pay compensation to the tenant for goodwill under this part of this Act." Dealing with this question his honour Judge Maxwell, at Bournemouth County Court, said: "A reversionary lease was admittedly granted to the plaintiff before 31st March, 1927, namely, on the 11th September, 1923, and another one after that date. Counsel for the tenant contended that the sub-section must be taken to refer to a reversionary lease granted to a stranger and not to a sitting tenant. Counsel for the landlord on the other hand argued that this previous lease to the tenant (which at the date when it was executed was a short reversionary lease taking effect at the expiration of the previously existing lease) was a reversionary lease within the meaning of s. 15 (3). His honour concurred with this latter contention, and held that such a lease granted by the defendant landlord to the plaintiff tenant was such a reversionary lease as was contemplated by the said section.

Our County Court Letter.

THE RESPONSIBILITIES OF GARAGE PROPRIETORS.

(*Continued from* 73 Sol. J., *p.* 105.)

IV.

In the recent test case of *Allison* v. *Foreman* at Worksop County Court the plaintiff claimed £35 as damages sustained to his motor-cycle and sidecar by reason of the defendant's negligence. The plaintiff had paid for garage accommodation upon premises of which the defendant was also the landlord, but the sides of the garage had been raised and another storey had been added and used as a dance hall. In November, 1928, the whole building had collapsed and had completely wrecked the combination, the case for the plaintiff being that there had been negligence in the construction of the additions to the garage. The defendant's case was that (1) the additions were erected by a competent builder; (2) the only relationship between the plaintiff and the defendant was that of bailor and bailee, and the defendant's only responsibility was to use reasonable care; (3) at the time of the collapse of the building there was a wind of exceptional strength which constituted an act of God. The meteorological conditions at the Sheffield observatory indicated a storm and gale on the date in question, and His Honour Judge Hildyard, K.C., held that the defendant had exercised reasonable care, and gave judgment in his favour.

The above decision followed that in *Searle* v. *Laverick*, L.R. 9 Q.B. 122, in which the plaintiff lodged two carriages in the defendant's livery stables. The defendant had employed a competent builder, but in a high wind the coach-house was blown down, though the defendant was unaware of any defect in its construction. The plaintiff sued for the damage caused to his carriages, but it was held that (1) evidence of the negligence and lack of skill of the builder was inadmissible; as (2) the defendant was only a bailee for hire and was only bound to take ordinary care; and (3) the defendant was not liable for damage caused by the builder's negligence, in the absence of notice. The Divisional Court refused to order a new trial, and Mr. Justice Blackburn held that on a delivery of a chattel for reward to a private person, not exercising a public employment, the only liability is to take reasonable care that any building in which the chattel is deposited is in a proper state. There is no implied warranty or obligation that the building is absolutely safe, and it makes no difference that the building has been erected for the bailee on his own ground.

The foregoing decisions only relate to the bailment of goods, and different considerations would have arisen if the owners themselves had been injured. In *Maclenan* v. *Segar*, 1917, 2 K.B., at p. 332, Mr. Justice McCardie stated that where the occupier of premises agrees for reward that a person shall have the right to enter and use them for a mutually contemplated purpose, the contract implies a warranty that the premises are as safe as reasonable care and skill can make them. The defendant is not responsible for defects which could not have been discovered by reasonable care or skill during the construction or alteration of the premises, but subject to this limitation it is immaterial whether the lack of care or skill be that of the defendant or an independent contractor. Evidence is therefore admissible as to the builder's negligence, and it is open to a jury to find that the premises were not as safe as reasonable care and skill could make them. The foregoing ruling was given in an action for damages following a fire, and the implied warranty was held

to arise out of the contractual relationship existing between an innkeeper and his guest.

The same principle was held to apply to the case of a collapse of a ceiling in *Brannigen* v. *Harrington*, 37 T.L.R. 349, in which the plaintiff was a customer in the defendant's restaurant and had been injured during a meal. Damages were claimed for (1) negligence, and (2) breach of an implied warranty that the premises were as safe as reasonable care and skill could make them. Mr. Justice Greer (as he then was) held that there was no negligence, but that the above principle applied equally to a restaurant, where payment was not only made for the food, but for the accommodation. Judgment was therefore given for the plaintiff.

All the foregoing cases must be distinguished from those in which there is no contractual relationship between the parties, as the liability to a mere invitee is governed by *Indermaur* v. *Dames*, L.R. 1 C.P. 288. Such a visitor, using reasonable care for his own safety, is entitled to expect that the occupier shall use reasonable care to prevent damage from unusual danger, of which he knows or ought to know.

Practice Notes.

REPAYMENT OF RELIEF LOANS.

(*Continued from* 73 Sol. J., p. 88.)

II.

In the recent case of *Stoke and Wolstanton Board of Guardians* v. *Boulton*, at Burslem County Court, the plaintiffs claimed £7 13s. as money lent. The plaintiffs' case was that the sum was advanced for the purchase of necessaries for the maintenance of the defendant's wife and children during the coal stoppage of 1926. It was contended on behalf of the defendant that (1) the proceedings were out of date through not having been commenced within six months from September, 1927, during which month repayment was demanded; (2) the plaintiffs' advance had been illegal, and was therefore irrecoverable. His Honour Judge Ruegg, K.C., held that (1) under the Poor Law Act, 1927, s. 46, the jurisdiction given to the county court was not subject to the six months' time limit, whatever might be the position in courts of summary jurisdiction; (2) the plaintiffs had control of public money, and could lend it on any terms they liked, it being immaterial whether they had power to do so. The result was that the defendant was not entitled to refuse repayment, merely on the ground that there was no power to lend, and judgment was given for the plaintiffs for the amount claimed. The above procedure is useful after six months have elapsed from the demand for repayment, whereby proceedings are barred before the magistrates, but it should be noted that the county court has no jurisdiction either (1) to summon the employers to appear, or (2) to make an order for the deduction of any amount from the defendant's wages, as the magistrates are entitled to do.

TEMPERATURE AND BAD STOWAGE.

A shipowner who provides an unseaworthy vessel is not protected by the Carriage of Goods by Sea Act, 1924, Art. IV, as shown by the recent case of *H. Leetham & Sons Limited* v. *United States Shipping Board*, at Hull County Court. The plaintiffs' claim was in respect of a cargo of Manitoba wheat carried in the ss. "Lehigh" from Baltimore to Hull, it being discovered that forty-seven quarters were damaged out of 2,000 quarters stowed in No. 4 hold. The latter was traversed by a tunnel containing four steam pipes, the whole tunnel being enclosed in a wooden casing which was neither air-tight nor grain-tight. His Honour Judge Beazley held that the damage was not due to the ventilators being closed, nor to the perils of the sea, nor any inherent defect or vice in the wheat, but solely to the heat emanating from the tunnel and the pipes inside. The result was that No. 4 hold, in so far as wheat was stowed on the top of and at the sides of the tunnel, was not fit to receive wheat, and the vessel in that respect was unseaworthy. Judgment was therefore given for the plaintiffs in respect of damage and shortage, with costs. A case on the other side of the line was *Bradley & Sons Limited* v. *Federal Steam Navigation Co. Limited*, 137 L.T. 266, in which it was claimed that a cargo of Tasmanian apples had been damaged by bad ventilation, which rendered the ship unseaworthy. The House of Lords held that the damage was not due to the ship, but to the unfitness of the apples to make the voyage in an ordinary way, and therefore arose from inherent quality or vice of the goods so as to exonerate the shipowners.

Legal Parables.

XXVII.

The Two Solicitors and the Doubtful Point.

Mr. Sly and Mr. Sharp were fellow-practitioners and friendly rivals, who frequently met in local county courts and police courts.

It happened once that they were both instructed in a case of some little difficulty which had been adjourned for further consideration and argument.

"That blighter Sharp," said Mr. Sly to his articled clerk, "has a beastly knack of beating me with some rotten case that no one else ever heard of. I can't find anything at all on this point we're on now. I shall tell the old boy that so far as I can ascertain the matter is *res integer*. Sounds rather good, I think!" "*Integra* sounds better," murmured the clerk. "And then," went on the articled clerk, "Sharp will jump up with an authority in his favour. I don't know where he finds 'em. If it isn't an English case it's an Irish one, or an American, or one from South Africa. It's my belief he invents 'em!" "By jove!" exclaimed Mr. Sly, "That's an idea!" "What is?" inquired the clerk.

"Why that!" rejoined Mr. Sly. "Hi! boy, get me a book!"

"Yes, sir," answered the office boy. "What book, sir?" "Any book you like, so long as it looks big and learned and has got an unobtrusive cover."

When they got into court, Mr. Sly addressed the stipendiary. There was, he said, no English case that he could find which was directly in point. He imagined, however, that his worship would attach some weight to an American authority where the English authorities left a matter in doubt. (Here Mr. Sharp gasped and tried hard to decipher the printed words on the back of Mr. Sly's heavy volume, but without success.) "It seems to me," proceeded Mr. Sly, "that the American case of *Rooslidge* v. *The People*, of which I will read you the head-note, exactly covers the point in issue between my friend and me, and that your worship will find no difficulty in deciding in my client's favour."

As he resumed his seat, Mr. Sharp, who seemed to have recovered himself, rose to his feet.

"I confess," he said, "I did not trouble to bring with me the volume of reports which my friend holds in his hand. I am, however, quite familiar with it. My friend will forgive me if I say his researches have stopped short just when they should have been continued. The case he quoted was overruled in a higher court, and is reported in the same volume to that effect. Allow me," he added, seizing Mr. Sly's precious book, "here it is, at page 697. If, therefore, the case is to weigh at all, it is undoubtedly in my favour."

So the stipendiary found in favour of Mr. Sharp once more.

And as the two rivals left the court, Mr. Sharp laughed loud and long. "You old villain!" he said to the crestfallen Sly, "You almost deserved to win! What on earth was that book, any way?"

"Dashed if I know myself!" replied Mr. Sly. "I don't think much of it any way. No book is worth anything if it fails to accomplish its purpose."

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Restrictive Covenants post-1925—Unregistered—Effect on subsequent Purchaser.

Q. 1591. In 1926 A sold and conveyed land to B for money, and by the conveyance restrictive covenants were imposed. The plan on the conveyance shows land abutting on an old highway, which land is divided into plots of which A conveyed two to B. The land sold also formed a portion of a considerable estate belonging to A which has not yet been developed. B is now selling to C, who wishes to buy, if possible, free of the restrictions. A recent search for land charges against B reveals "no subsisting entries."

(1) Can it safely be assumed that s. 13 of the L.C.A. applies and that the restrictions are or will be no longer operative if completion takes place within two days of the date of a further certificate of search.

(2) If other plots have been sold subject to similar restrictive covenants and the vendor has registered them as a charge in due time, would the owners of those other plots have any right to enforce performance of the covenants by B or C, possibly on the ground of the existence of a building scheme, or would their remedy (if any) be against A in damages only?

(3) Assuming the restrictions are void, what is the usual form of conveyance in such a case? Is it best to (*a*) ignore the existence of the covenants in the earlier conveyance; (*b*) convey subject to such covenants (if any) as are subsisting; (*c*) recite the conveyance and covenants and omission to register and consequent avoidance thereof, and agreement to sell free therefrom?

(4) If, acting on behalf of both B and C, should a solicitor, to protect B against a claim by A, or any other party entitled to the benefit of the covenant, take steps (and if so, what) to register the restrictions, or is he justified in ignoring them?

The point is likely to be of general use in the future, and any comments thereon will be esteemed.

A. The points raised in this question are in the main answered in "Everyday Points of Practice," case 8, p. 354.

(1) The effect of s. 13 of L.C.A. and s. 199 of L.P.A., 1925, and s. 4 (2) of L.P.A. (Amendment) A., 1926, is to prevent A bringing an action against C in respect of the unregistered restrictive covenants.

(2) The covenant being void against C, it could not be directly enforced against him by anyone. There is nothing in the Acts however to exonerate B from his liability under the original covenant, unless his liability is by the terms of the covenant limited to the time during which he retains an interest in the land. The general rule of law that a person selling subject to a disclosed restrictive covenant is entitled to a covenant if indemnity from his purchaser does not appear to be altered, and C having been required by B to enter into such a covenant might be indirectly liable in damages (if any are obtainable in an action against B) although an injunction could not be obtained. It, remains, however, to be seen whether the non-registration of covenants will be construed by the courts as laches, so as to affect A's right of action against B.

(3) For the reason given above, that B still appears to be entitled to an indemnity, the existence of the covenant can hardly be ignored. It is considered, therefore, that suggestion (*c*) should be adopted, but coupled with the addition that C should enter into the covenant of indemnity thereinafter contained, and a simple covenant to indemnify B should be inserted. If there is a positive covenant, e.g., to erect a boundary fence, B may possibly require a direct covenant by C to perform this.

(4) See answer to (3).

Town Planning—Sewers—Right to lay across Neighbour's Land.

Q. 1592. A is the owner of a building estate in a town planning area in course of development, new roads and sewers being now under construction. B owns the adjoining land and is anxious to develop it as a building estate, but has been unable to do so hitherto as owing to the levels he can get no outlet for his sewage except through A's estate. B now boasts that, on A's sewers being completed, he can successfully claim the right to connect up with and drain through them, although to do so he would have to take his sewer from the boundary of the two estates to the nearest point of one of A's sewers, and so render a portion of A's land unfit to be built upon. (1) What right (if any) under the Town Planning Acts or otherwise has B to connect up with and use A's sewer? (2) On what basis would B compensate A for: (*a*) disturbance; (*b*) rendering a portion of his estate unfit to be built upon; and (*c*) use of his sewer if such right exists?

A. (1) No town planning scheme is likely to contain such an extraordinary alteration of the existing law, which gives B no such right as that claimed by him. The right to connect to sewers given by s. 21 of the Public Health Act, 1875, does not authorise trespass on someone else's land: *Wood* v. *Ealing Tenants*, L.R. 1907, 2 K.B. 390. The Court of Appeal distinguished that case last Monday (*Grant* v. *Derwent*), but there the privately owned soil through which the pipe complained of was laid, was the subsoil of a highway repaired by the inhabitants at large. (2) If the scheme does contain anything so extraordinary, no compensation will be payable beyond that provided for by the scheme itself.

Copyholds—Vesting on Enfranchisement—Undivided Shares.

Q. 1593. In 1865 X a spinster was admitted to certain copyhold property in the following terms: "To the use and behoof of X for life and after her death and in case of her leaving issue to her issue in fee as tenants in common if more than one and in case of X dying without having had any issue then To the use and behoof of her two brothers Y and Z their heirs and assigns for ever as tenants in common and not as joint tenants." X married but died without having had issue. Y died in 1891, having by his will appointed three executors to whom (*inter alia*) he devised his share in the property. The surviving executor S died in 1915 having by his will appointed T sole executor. Z died intestate in 1891 leaving a son and daughter. Z's son died intestate in 1896 leaving a daughter B. B became the wife of T. In 1919 T and B agreed to sell their interests in the property to D and a contract containing the general conditions of the local law society was signed by D as purchaser. D paid the purchase money on the date appointed for completion, but no instrument conveying the property has yet been executed. D now requires his title deeds. There has been no entry on the rolls of the Manor Court since X's admittance in 1865. Will you please indicate the lines on which to proceed in preparing the conveyance and refer to suitable precedents.

A. It is necessary to decide who at the commencement of L.P.A., 1922, was best entitled to be admitted as copyholder in fee. As between the personal representative, customary

heir and devisee of trust estates of X, the personal representative is deemed to have the better right: L.P.A., 1924, Sched. II, s. 4 (1). The legal estate in fee simple will have vested in that individual, but we cannot say who it is from the data supplied: L.P.A., 1922, Sched. XII, para. 8 (*b*), and by virtue of L.P.A., 1922, Sched. XII, para. 8 (*e*) (iv), and L.P.A., 1925, Sched. I, Pt. IV, para. 1 (1), will now be held by him upon the statutory trusts. T and B as controlling the entire equitable interest could call upon the individual in question to convey the legal estate to D. We do not think that D ever became entitled to be admitted. We regret that we cannot trace a suitable precedent, but we suggest that after suitable recitals, including a recital of the payments of the purchase money, and that no assurance to D was ever executed, the person in whom the legal estate is vested should at the request of T and B convey the legal estate to D. We do not think it can be suggested for a moment that D automatically by virtue of any of the transitional provisions of the new Acts acquired the legal estate.

Sale by Two Administrators TO THE WIFE OF ONE OF THEM—VALIDITY.

Q. 1594. A testator died some five years ago, leaving a will, and was followed by his wife two years ago. The wife had not obtained probate of the will. By his will the testator gave (*inter alia*) his real property to the wife for life and appointed her sole executrix. After her death the property was to be equally divided between all his sons and daughters except as therein mentioned. After the death of the wife administration *cum testamento annexo* was granted to two of the children. One of the administrators, in agreement with the others, wishes to purchase part of the real property. According to "Emmet," 11th ed., p. 997, it seems clear that this sale cannot take place without an order of the court, or in any event it is not advisable that it should, and an application through the estate amounting to just over £500 must go to the High Court, an expense it is wished to avoid. Is there any objection to the conveyance being made to the wife of the administrator referred to. On this point we would refer you to *The Dowager Duchess of Sutherland* v. *The Duke of Sutherland*, 1893, 3 Ch. 169. If you consider that this course cannot be adopted with any certainty what do you advise? The wife has no separate estate and the husband only earns a small wage per week. In either case it is proposed to take a building society mortgage.

A. There is no absolute rule that the purchase of trust property by the trustee's wife is illegal: "Gibson's Conveyancing," 12th ed., p. 71, quoting *Burrell* v. *Burrell*, 1915, S.C. 333. The cases of *Gilbey* v. *Rush*, 1906, 1 Ch. 11, and *Middlemas* v. *Stevens*, 1901, 1 Ch. 574, may conveniently be compared with *Sutherland* v. *S.* We express the opinion that a sale by the two administrators to the wife of one of them, if at a fair price and effected with the express consent of those beneficially entitled, would confer a reasonably secure title.

Vesting Assent—WHETHER REQUIRED IN RESPECT OF CAPITAL MONEY.

Q. 1595. Testatrix died in 1909, appointing two executors and trustees, and trustees for the purposes of the Settled Land Acts, and after devising her estate to her trustees upon trust for payment of debts, etc., to hold the residue upon trust for A for life, and after A's decease upon a trust which failed, and then to divide the residue amongst B, C and D in equal shares as tenants in common. A died in 1928 leaving a will. One of testatrix's trustees died in 1922 and another was substituted by deed last month. The point now arises as to whether the personal representatives of A should make a vesting assent in favour of the trustees of testatrix's will, or whether they should make such assent to B, C and D as the beneficiaries under the will, the settlement having come to an end on the death of A the life tenant. The will did not contain any trust for sale. There was a small portion of real estate which has been sold or £500. No duties are now payable.

A. If, as appears to be the case, the whole of the settled land has been sold, there can be no vesting assent. All that is required is the equal distribution between B, C and D of the capital moneys.

Obituary.

MR. W. F. WEBSTER.

Mr. William Frederick Webster, M.A., Barrister-at-Law, who died at his residence, 29, Cholmeley Park, Highgate, N., on Sunday, the 10th inst., aged seventy-three—a widower—was an equity draftsman and conveyancer with chambers at 8, New-square, Lincoln's Inn, which he had occupied in association with Mr. Edward H. Benn and others for the long period of twenty-eight years. After a distinguished career at Trinity College, Cambridge, where he gained high honours in Oriental languages, especially Sanscrit, he was called to the Bar at Lincoln's Inn on 3rd May, 1882, and in his last years he was elected a member of the Conveyancers Institute (limited to forty members) and was privileged to lecture at Cambridge and Hereford on the alterations effected by recent legislation in the law of property. He filled, years ago, until abolished, the post of Revising Barrister for the City of London and other Parliamentary divisions. He had to the last a constant conveyancing practice and was known for his ready knowledge of case law. He wrote "Webster on Conditions of Sale," still the leading book of reference on the subject, and he edited the Second Edition of "Ashburner on Mortgages." He resorted daily to Lincoln's Inn Common Room to lunch with a small circle of professional friends there and frequently dined in Hall, and he was at all times appreciated for his kindly disposition. He was an earnest member of the Church of England, and as such became a warden at the Church of St. Augustine, Archway Road, Highgate, near his residence, whence his remains were, on the 13th inst., after a short service, attended, amongst others, by his eldest son, William Byron Webster (now studying medicine at Bart's.), and two daughters and many barrister and solicitor friends, taken to Golders Green Crematorium. During vacations he was fond of touring on foot (with knapsack) in foreign parts, as he actually did last Vacation in Bohemia, and he was remarkably apt at acquiring the necessary foreign language. From 1895 he interested himself in securing the welfare of American Indians occupying the reserves of the New England Company, of Bloomsbury-square, W.C., of which he was a member, and as such was appointed to visit Canada to inspect and report on the aspect of the Company's missionary work there.

MR. MARK WHYLEY.

Admitted in 1856, and said to be the oldest coroner and the oldest practising solicitor in England, Mr. Mark Whyley passed away at his residence, The Den, Bromham-road, Bedford, on Tuesday, the 19th inst., at the age of ninety-six. Mr. Whyley was head of the firm of Mark Whyley & Son, and held the appointments of Clerk of the Peace for the Borough of Bedford (since 1861), clerk to the Asylums Visiting Committee, secretary and receiver of St. John's Hospital, Bedford, and Registrar of the Archdeaconry of Bedford. He was elected coroner for the County of Bedford by the freeholders in 1865, but for some time his son, who joined his father's business in 1906, has been acting as his deputy in his various public appointments. Always enjoying good health, he had never had a really serious illness until the bitter weather, experienced recently, affected him. He was a prominent mason, and Past Grand Deputy Master of England and Past Grand Deputy Master of Bedfordshire. He devoted most of his spare time to the study and collection of clocks, and his residence is surmounted by a tower containing a clock built to his own design, whilst his collection of clocks is said to be unique. H.

Reviews.

The Ratepayer and his Assessment (outside London), A Practical Guide for Lawyers and Laymen. Ernest I. Watson, LL.D., Solicitor, Clerk of the Peace for the City of Norwich. Large crown 8vo. pp. xi, 168, and (Index) 14. (Second impression). The Solicitors' Law Stationery Society, Ltd., London, Liverpool and Glasgow. 8s. net.

The Rating and Valuation Act, 1925, and the amending statutes have to a great extent revolutionised the whole machinery of rating and assessment, and in many important respects modified the principles of assessment and valuation. In this useful treatise Dr. Watson has given a clear and concise account of the law and practice in such matters as it obtains to-day. It includes a chapter dealing with the changes introduced by the Rating and Valuation (Apportionment) Act, 1928, a carefully selected table of cases, an Appendix of useful forms, and a comprehensive chapter giving practical guidance on the subject of appeals, with advice on procedure. This admirable little work should prove of the greatest assistance to all who are called upon to make themselves familiar with the complexities of this important subject. H.

A short History of English Law from the Earliest Times to the end of the year 1927. By Edward Jenks, D.C.L., Hon. D.Litt. 4th Edition. London: Methuen & Co., Ltd. xxxv and 420 pp. 12s. 6d. net.

The principal feature of Professor Jenks' standard text-book on the History of English Law are: (1) The addition of a new chapter (chap. XX) in which are reviewed the leading changes made in our law by the Law of Property Acts, 1922-26, and the Landlord and Tenant Act, 1927; (2) the incorporation of a few corrections or modifications in the original text necessitated by the recent discoveries of researchers; and (3) the addition here and there of new material to bring the historical account contained in the book up to date.

From the point of view of the earnest student of English law and legal institutions there is no richer and more pleasant field of study than that of the history of that law and of those institutions. It is common knowledge that no one has done more to popularise that history among students than Professor Jenks has done. It is but a fitting tribute to his labours as a historian, and his popularity as a teacher, that his standard text-book on a comparatively new subject should attain a fourth edition in such a short space of time.

Cockle and Hibbert's Leading Cases in Common Law, with Notes, explanatory and connective, presenting a systematic view of the whole subject. 2nd Edition. W. Nembhard Hibbert, LL.D. (London). Medium 8vo. pp. xxxvi and 959. 1929. Sweet & Maxwell, Ltd. 42s. net.

In one of his books Sir Frederick Pollock tells us that when he was beginning the study of the law, his grandfather, who had then lately resigned the office of Chief Baron of the Exchequer, wrote to him a letter in which he said: "I myself read no treatises; I referred to them as collecting the authorities. I learned law by reading the reports and attending the courts, and thinking and talking of what I read and heard." Every one who aims at becoming a good lawyer must realise the importance of this advice and study the reports, and not content himself merely with text-books, which, however good and useful, can never take the place of the case law on which they are founded. A recognition of this fact induced John William Smith, one of the greatest of English lawyers, to compile his "immortal Leading Cases," as Thackeray well described them in a well-known chapter in "Pendennis." Smith's volumes have exercised a profound influence on the study of the common law, and have, moreover, been the model on which more recent collections have been compiled. The volume now under consideration is an excellent example of the manner in which such a work should be presented to the student of to-day. Well arranged under the headings of Contracts, Torts, the Law of Persons, and Conflict of Laws, the cases selected present a fairly complete view of the various sub-divisions of these subjects. The head-notes, printed in bold type, and stating the principle laid down, are marked by a concision which we should be glad to see more frequently imitated in the ordinary reports; the relevant passages from the judgments are then set out; and, when necessary, notes are added showing the further development by decisions of the principle involved. Where so much good work has been done by the learned editor it may seem ungracious to call attention even to small matters, but in view of another edition which is sure to be called for before very long, we would venture to suggest the inclusion, as one of the leading cases, of the decision of Horridge, J., in *Phillips* v. *Brooks*, 1919, 2 K.B. 243. The case is briefly noted on p. 178, but as the decision, which, although a good deal canvassed, was not taken to the Court of Appeal, involves a qualification of the head-note to *Gordon* v. *Street* on p. 176, it might be well to give it somewhat more prominence. Again, on the important subject of "Payment through the Post," dealt with in the Addenda, a reference to *Mitchell-Henry* v. *Norwich Union Life Insurance Society*, 1918, 2 K.B. 67, would be a useful reminder of the danger of sending large sums in notes through the post. The index, always an important section of a law book, is full, and so far as we have been able to test it, accurate. We congratulate Dr. Hibbert on producing so useful a selection of the authorities.

Books Received.

Regulations for Management of a Company Limited by Shares. The new Table A, showing the alterations in the Form contained in the Companies Forms (No. 1) Order, 1929, in which distinctive types are used, revealing at a glance the differences between the old and new Forms. Medium 8vo. 22 pp. London: The Solicitors' Law Stationery Society, Ltd., 22, Chancery-lane, W.C.2; Liverpool: 19 and 21, North John-street; Glasgow: 66, St. Vincent-street. 1s. 8d. (including postage).

Massachusetts Law Quarterly. Vol. XIV, No. 5. February, 1929 (and Supplement—Second Report of Special Commission to investigate entire subject of Revenue from Taxation, etc.). Massachusetts Bar Association, 60, State-street, Boston, Mass.

Heard Melodies. Leopold Spero. Demy 8vo. 54 pp. 1929. London: Fowler, Wright, Ltd., 240, High Holborn. 5s. net.

Correspondence.

Lord Haldane and "a fat brief."

Sir,—In justice to the memory of a great man and lawyer, who in his latter years suffered much injustice, I think Mr. Randle F. Holme would do well to read again the context from which he purports to make an extract, giving it an unpleasant flavour.

I feel sure that many will share my view that Mr. Holme might graciously withdraw his letter in your issue of the 9th March, after re-perusal of the passage referred to in this "Autobiography of the Century," which contains many good things outweighing the incident upon which Mr. Holme has thought fit to animadvert.

Lord Haldane is dead, and cannot, if he would, point out the error into which Mr. Holme has fallen, doubtless in his zeal for the good reputation of his branch of the profession.

I think the point of the story was the recognition of the tact and helpfulness displayed by Lord Haldane, possibly at

some inconvenience, in unlooked-for conditions on an occasion when a host would look for general appreciation of a thoughtfully selected wine, and be disappointed if it were lacking I venture to think it was Lord Haldane's quality, and not the quantity, of wine consumed that counted.

Can it be that Mr. Holme is an ardent prohibitionist?

London, W.1, C. Albert Paine.
13th March.

"Set-off of Sickness Benefit against Wages."

Sir,—We are much obliged to you for your reply, but should like to point out that it was expressly held in *Elliot* v. *Liggens*, 1902, 2 K.B. 84, that a workman drawing compensation under the Workmen's Compensation Acts was not entitled to his wages, and it appears to us highly probable that by analogy the same decision would be come to if he were in receipt of National Health Insurance.

We should be interested to know whether a perusal of this case modifies your opinion.

11th March.

[It is assumed that this is not a case under the National Insurance Act, 1911, s. 47, in which the employer has undertaken liability for wages during sickness in consideration of reduced contributions. In *Elliot* v. *Liggens*, *surpa*, the Divisional Court pointed out that workmen's compensation is calculated by reference to earnings, the assumption being that it is in substitution for wages. There is no similar method of calculating sickness benefit under the above Act, so that there is no analogy between the two cases. It should be noted that the Fatal Accidents (Damages) Act, 1908, provides that in assessing damages under the Act of 1846, there shall not be taken into account any sum payable under any contract of insurance. In *Carling* v. *Lebbon*, 1927, 2 K.B. 108, it was held that a pension under the Widows' Orphans and Old Age Contributory Pensions Act, 1925, was not within the Act of 1908, and therefore had to be deducted from the damages under the Act of 1846. No analogy can be drawn from this, however, and there appears to be no reason to modify the original opinion.—Ed., *Sol. J.*]

The Enforcement of a Positive Covenant.

Sir,—I have been very interested in reading the recent articles in your paper dealing with the enforcement of a positive covenant for the repair of a fence. As I have not come across a precedent which seems adequate in view of what has appeared in your columns, I should very much appreciate it if you could publish one which would be suitable for adoption in the ordinary case where a vendor is selling off his land in plots, subject to restrictive covenants, and to a covenant to erect and maintain fences, but is not creating a building scheme.

Birmingham. R. Cyril Yates.
12th March.

[We much regret we cannot comply with this request as we do not undertake the publication of precedents.—Ed., *Sol. J.*]

EXAMINERSHIPS.

The Council of Legal Education announce the following appointments:—To the Readership at the Inns of Court in Equity, Professor W. S. Holdsworth, D.C.L., K.C. To Examinerships:—In Roman Law, Mr. C. A. W. Manning, B.C.L., Fellow and Tutor of New College, Oxford; in Constitutional Law (English and Colonial) and Legal History, Mr. A. E. W. Hazel, B.C.L., LL.D., C.B.E., Principal of Jesus College, Oxford; in Real Property and Conveyancing, Mr. E. C. S. Wade, M.A., LL.M., Fellow of St. John's College, Cambridge; in Common Law, Criminal Law, Evidence and Procedure (Civil and Criminal), Mr. C. K. Allen, M.A., Fellow of University College, Oxford; Mr. R. M. Hughes, B.A., LL.B., Chancellor's Gold Medallist, Cambridge; and Mr. A. D. McNair, LL.D., C.B.E., Fellow and Tutor of Gonville and Caius College, Cambridge.

Notes of Cases.

Dobbin *v.* Ogden and Another.

Scrutton, Greer and Sankey, L.JJ. 14th March.

Landlord and Tenant—Business Premises—Goodwill—Claim for Compensation or New Lease—Notice—Service Two Days before Act coming into Force—Validity of Notice—Landlord and Tenant Act, 1927, 17 & 18 Geo. 5, c. 36, ss. 4, 5.

Appeal from the Divisional Court (73 Sol. J., 143).

The appellant, the plaintiff in the county court, Joseph Dobbin, was the lessee of premises at 74, Oldham-street, Manchester, where he carried on the business of a draper and milliner; his lease was due to expire on Lady Day, 1929. When the Landlord and Tenant Act, 1927, was passed, he, being desirous of availing himself of its provisions, served a notice upon his landlords, the respondents, which was dated the 23rd March, 1928, claiming compensation for loss of goodwill under s. 4 of the Act of 1927, or a new lease of the premises under s. 5. Both the service of that notice, effected by registered letter, and the acceptance of service, occurred before the 25th March, 1928, which was a Sunday and the day on which the Landlord and Tenant Act, 1927, came into operation. The notice was sent by registered post on the 23rd March and was received by the landlord on the 24th. The county court judge refused to accept the submission made by the plaintiff's counsel that the notice of the claim was valid, even though given two days before the Act came into operation, and he gave judgment for the respondents on the ground that the notice having been served before the 25th March, 1928, was bad, and not given under the Act. The Divisional Court held that the county court judge was right. The notice which was served did not apply to a holding under the Act of 1927 and was not served in the prescribed manner. It therefore amounted to a nullity and was no notice at all. The appeal was therefore dismissed. The plaintiff appealed.

The Court (Scrutton, Greer and Sankey, L.JJ.) allowed the appeal. The notice given by the tenant was a good notice. It was in the proper form and had been given within the period prescribed by the Act of 1927, and the landlord had it in his possession on the 25th of March, 1928, when the Act came into force. The case must therefore be remitted to the county court for a further hearing. Appeal allowed.

Counsel: *A. R. Kennedy*, K.C., and *H. S. Barker*; *Sir T. Willes Chitty*, K.C., and *W. Hanbury Aggs*.

Solicitors: *Pritchard, Englefield & Co.*, for *Lloyd & Davies*, Manchester; *Gregory, Rowcliffe & Co.*, for *Frank Barrett*, Manchester.

[Reported by T. W. Morgan, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Maclean *v.* The Workers Union.

Maugham, J. 11th, 14th, 15th, 16th January and 18th February.

Trade Union — Rules — Executive Committee as "Prosecutors"—Expulsion from Union—Bias—Domestic Tribunal—Court—Jurisdiction of—Good Faith of Tribunal.

Action.

This was an action by one of the members of the defendant union who had stood for election as president of the union in 1927. He had issued a circular making charges against the then president and general secretary of the union. He had not obtained the leave of the executive committee or the general secretary before issuing the circular, and he had thus infringed r. 45 of the defendant union's rules, which required that no address or circular be issued by any branch or member unless the same had first been so approved,

imposed a fine and suspension from benefits for one month upon offenders against the rule, and empowered the executive committee to expel them. Accordingly in August, 1927, the executive committee passed a resolution fining the plaintiff and deciding that his nomination for the presidency should not be allowed to stand. This resolution, however, was later rescinded upon legal advice as the plaintiff had not been heard. The secretary of the defendant union wrote on the 15th of September informing the plaintiff that a meeting of the executive committee would consider the question of the plaintiff's election address and might if thought fit exercise its powers under r. 45, and the letter invited the plaintiff to attend the meeting. The plaintiff attended and stated his views, and then withdrew, and thereupon the executive committee resolved that he had committed a serious breach of r. 45, and that he be excluded from membership of the union. The plaintiff now claimed a declaration that that resolution was *ultra vires* and void, and an injunction to restrain the defendant union from enforcing the resolution and from in any way interfering with the plaintiff's rights as a member of the defendant union.

MAUGHAM, J., in the course of a considered judgment, said: In a general sense it is true to say that the members of the executive committee in the circumstances of the case might fairly be suspected of a bias in the popular sense against the plaintiff. The jurisdiction of the courts in regard to domestic tribunals is clearly of a limited nature. It is apparent and it is well settled by authority that the decision of such a tribunal cannot be attacked on the ground that it is against the weight of the evidence, since evidence in the proper sense there is none, and since the decisions of the tribunal are not open to any sort of appeal, unless the rules provide for one. The question does not directly arise in the present case, but I might point out that the view of the Court of Appeal in *Leeson* v. *The General Council of Medical Education and Registration*, 1889, 43 Ch. D. 366, seems to me to put the matter in a more accurate way than it is put in the subsequent case of *Allinson* v. *The General Council of Medical Education and Registration*, 1894, 1 Q.B. 750. It is certain therefore, that a domestic tribunal is bound to act strictly according to its rules, and is under an obligation to act honestly and in good faith. It is not suggested in the present case that the rules as they stand have not been complied with, and on the evidence before me I am quite unable to hold that the committee have acted otherwise than honestly and in good faith. A person who joins an association governed by rules under which he may be expelled has in my judgment no legal right of redress if he is expelled according to the rules, however unfair or unjust the rules or the action of the expelling tribunal may be, provided that it acts in good faith. It is the duty of the committee to take the steps mentioned in the letter of 15th September, 1927, and if in taking these steps they are prosecutors, the answer is that the rules in such a case contemplated that they should be. The result is that the resolution in question is not open to objection in this court. The action therefore fails and is dismissed with costs.

COUNSEL: *C. A. Bennett*, K.C., *E. J. C. Neep*, *Sir Henry Slesser*, K.C., and *Howard Wright*.

SOLICITORS: *T. J. Robinson & Son; Pattinson & Brewer.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

In re a Solicitor.

Avory and Macnaghten, JJ. 14th February.

SOLICITOR—STRUCK OFF THE ROLLS—EXTENSION OF TIME FOR APPEAL—REFUSED.

In this case Charles Thomas Wilkinson made an application to the court under Ord. 59, r. 16, for an extension of the period for giving leave to appeal against the findings and orders of the statutory committee of The Law Society, by which he was found guilty of professional misconduct and ordered to be struck off the rolls. Mr. Wilkinson, who appeared in person, said that the matter arose out of an application that was made by his former managing clerk, William Cooper Hobbs, whom he had unfortunately employed, and in whom he had placed the greatest confidence. The matter also came before his lordship (Avory, J.) in 1925, on a prosecution in relation to the affairs of Sir Hari Singh, from whom Hobbs had obtained two cheques in his (Wilkinson's) name for £150,000. Hobbs, who became his clerk when he (Wilkinson) purchased the practice of Appleton & Co., had, in conjunction with Newton and Captain Arthur perpetrated in December, 1919, what his lordship had said was a fraud on Sir Hari Singh. The present applicant had unfortunately allowed the decision of The Law Society's statutory committee to go over for some few months because he did not think it would do him any harm socially, and he had not wished to have anything more to do with Hobbs. He was innocent, but in disrepute with those who had known him for years, and he felt constrained to do everything he could to wipe off the stigma which attached to him. His reason for the present application was that the statutory committee of The Law Society had been prejudiced against him when hearing the Hobb's application by reason of the fact that a previous application before the committee in respect of another matter had not been substantiated and The Law Society had had to pay the costs. The statutory committee in the Hobb's application had, he alleged, brought in a finding entirely contrary to the allegations contained in the affidavit and on different allegations altogether.

AVORY, J., giving the judgment of the court, said that this was an application for the extension of time within which to appeal against an order made by the statutory committee of The Law Society, finding that the present applicant had been guilty of professional misconduct. That order was dated the 29th June, 1928, and the rules governing the appeal provided that every appeal should be entered by notice of motion at the Crown Office, and the notice of appeal served within eight days from the date when the order was made. The applicant here gave no reason for the delay which had occurred. He only said that he was under the impression at the time that the order would not affect him socially, but he had now come to a different conclusion, and asked for an extension of time. In his (his lordship's) opinion the applicant had shown no sufficient reason for extending the time, and the application was refused. On an appeal of this kind The Law Society was always represented, and the costs of The Law Society, if the applicant failed, had, in his experience, always been awarded.

COUNSEL: *The applicant* appeared in person; *Kingsbury*, for the respondent; *Hon. S. O. Henn Collins*, for The Law Society.

SOLICITORS: *Edmond O'Connor & Co.; The Solicitor to The Law Society.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Humphery *v.* **Bowers.** Rowlatt, J. 4th March.

SHIPPING—SURVEY OF YACHT AT OWNER'S REQUEST NEGLIGENTLY EXECUTED—CONSEQUENTIAL EXPENSES INCURRED—CLAIM AGAINST LLOYD'S SURVEYOR—NO DUTY TO USE CARE AND SKILL TOWARDS OWNER.

The plaintiff in this action, Sir John Humphery, the owner of the yacht "Xenia," had it surveyed at his own request, with a view to its being classified in Lloyd's Yacht Register. The defendant, Thomas A. Bowers, one of the surveyors of the Society of Lloyd's Register of Shipping, surveyed, *inter alia*, the masts, spars, and rigging of the yacht, and reported them to be in a good and efficient state, and the yacht was classed as A.1. In reliance upon the reported good condition of his vessel the plaintiff engaged a crew, and began fitting out the yacht for a cruise, but in the course of the work the mainmast

was found to be rotten in places and wholly unfit for use, and he now claimed damages in respect of premature and unnecessary expenses incurred in engaging the crew and fitting out the yacht, alleging that the defendant had conducted his survey improperly and negligently. The defendant said that he was employed solely by Lloyd's Register, and denied that he owed the plaintiff any duty, contractual or otherwise, in connexion with the survey of the "Xenia"; he also denied negligence.

ROWLATT, J., held that the defendant had been guilty of negligence. Lloyd's wanted the information as to the yacht's condition, however, for the purpose of continuing the class of the vessel, and in the circumstances there was no duty on the defendant, independent of contract, to use care and skill in his survey. The plaintiff's contention, which he (his lordship) could not accept, was that the mere knowledge on the part of a sub-contractor employé that the contractee in the principal contract would suffer damage if the principal contract was not performed gave rise to a duty on the part of the sub-contractor employé to the principal contractee to take care that his contractual rights were not violated as the result of any default on his part; and that the damages for the breach of such duty were measured by the damages flowing from the breach of the principal contract. Judgment for the defendant, with costs.

COUNSEL: *J. G. Trapnell* and *J. D. Casswell*, for the plaintiff; *du Parcq*, K.C., and *Cyril Asquith*, for the defendant; *A. T. Bucknill* held a watching brief for Lloyd's Register of Shipping.

SOLICITORS: *Keene, Marsland, Bryden & Besant; Lovell, Son & Pitfield*, for *Paris, Smith & Randall*, Southampton; *Parker, Garrett & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Jones *v.* **Jones.** Hill, J. 7th and 25th February.

DIVORCE—LEGITIMACY ACT, 1926 (16 & 17 GEO. 5, c. 60)—WIFE PETITIONER'S PRAYER FOR CUSTODY OF CHILD RE-REGISTERED UNDER THE ACT—KING'S PROCTOR'S ARGUMENT—FUNCTION OF REGISTRAR-GENERAL—ESTOPPEL OF PARENTS EFFECTING RE-REGISTRATION—ORDER FOR CARE AND CONTROL OF THE CHILD.

Green *v.* Green, 1929, P. 101, *followed*.

This was an application by a wife petitioner in an undefended suit for dissolution for an order giving her the custody of the child of the parties, born before marriage, but subsequently registered under the provisions of the Legitimacy Act, 1926. There had been no legitimacy petition in respect of the child, and at the hearing of the petition the question of custody was held over for argument as to the court's jurisdiction to make the order prayed, and to give the King's Proctor an opportunity of being heard. The facts appear sufficiently from the judgment.

HILL, J., in the course of his judgment said, that the wife at the hearing of her petition gave evidence that she had given birth to a child on 20th March, 1922; that the respondent was the father; that she and the respondent were married in December of that year, and that she and the respondent re-registered the child in conformity with the Legitimacy Act, 1926. He (his Lordship) felt the same difficulty in making an order for custody as he had felt in *Bednall* v. *Bednall*, 1927, P. 225; 71 SOL. J. 453, and the President had dealt with the matter in *Green* v. *Green*, 1929, P. 101, 73 SOL. J. 111. The evidence in the present case was similar to that in *Green* v. *Green, supra*, with this exception only, that in the present case there had been put in a certificate of the birth of the child as re-registered by authority of the Registrar-General in accordance with the provisions of the Legitimacy Act, 1926. In his (his lordship's) opinion, that additional piece of evidence did not take the case out of the authority of *Green* v. *Green, supra*. Where a child was born before marriage, the difficulty in the way of the court's making an order for custody in a divorce suit arose not from lack of evidence, but from a lack of the necessary parties, and therefore of jurisdiction. So far as the evidence went there was nothing to prevent the court from acting on that of the petitioner. The court did not usually require the production of a birth certificate to corroborate the evidence given in the witness-box. It was not a record of a binding decision. The Registrar-General did not suggest that in authorising the re-registration he was acting in a judicial capacity, and he had made it known through the Attorney-General, that he was anxious to disclaim anything of the kind. It was clear that the exercise of his authority did not create a *res judicata*. The result was that the present case was governed by *Green* v. *Green, supra*. The Attorney-General had argued that, while an order for custody implied a finding that the child was one whom the Legitimacy Act, 1926, had legitimated, that finding was not a declaration of legitimacy, and was not conclusive, except as between the parties to the suit, i.e., the husband and wife, and that, therefore, there was no reason why it should not be made. That argument meant that the previous decisions were wrong, an argument which must be addressed to the Court of Appeal. There would be an order as in *Green* v. *Green, supra*, namely, that until further order the child was to remain in the care and control of the petitioner.

His lordship gave leave to appeal.

COUNSEL: *The Attorney-General* (Sir Thomas Inskip, K.C.); *Clifford Mortimer* and *William Latey*, for the King's Proctor. *E. H. O'Donnell*, for the petitioner.

SOLICITORS: *The King's Proctor; C. Denton Rowe.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Moyse *v.* **Moyse and Crick** (**King's Proctor showing cause**). Hill, J. 8th March.

DIVORCE—KING'S PROCTOR'S INTERVENTION—NON-DISCLOSURE OF PETITIONER'S ADULTERY—DUTY OF SOLICITORS TO QUESTION PETITIONERS WITH VIEW TO APPLICATION FOR DISCRETION.

In this suit, which had been begun under the Poor Persons' Rules, but afterwards proceeded on the ordinary footing, the King's Proctor showed cause why the decree *nisi* should not be made absolute on the ground of the petitioner's non-disclosure of his own adultery. The petitioner now asked for the discretion of the court to be exercised in his favour, and for the decree to be made absolute.

HILL, J., in giving judgment, said that the King's Proctor was entirely justified in intervening. It was a great pity that the petitioner had not been properly advised as to the law at the time. It was highly desirable that solicitors, especially in poor persons cases, should inquire of their clients who were petitioning for divorce whether they themselves had been guilty of adultery. Unfortunately the law did not allow a judge trying divorce suits to ask petitioners if they had ever committed adultery. If a judge were allowed to do so such difficulties as arose in the present case could be avoided and there would probably be a full disclosure of past conduct.

With regard to the present case, the petitioner's adultery occurred in circumstances in which many a working man had been driven to commit adultery when he was left with several children and had to employ a woman to look after them. His lordship granted the petitioner's prayer, the petitioner being condemned in the costs of the King's Proctor.

COUNSEL: *J. Foster*, for the King's Proctor; *F. Gahan*, for the petitioner.

SOLICITORS: *The King's Proctor; Cyril Phillips & Co.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Mr. Richard Henry Arlingham Davies, Solicitor, of Gwernvale Cottage, Crickhowell, Brecon, left estate of the gross value of £6,215.

Societies.

United Law Society.

A meeting of the society was held in the Middle Temple Common-room, on the 11th inst., Mr. E. H. Pearce in the chair. Mr. R. M. Hole opened: "That in the opinion of this House the case of *Tredegar (Viscount)* v. *Harwood*, 1929, A.C. 73, was wrongly decided." Mr. J. F. Hipwood opposed. There also spoke Messrs. Palmer, Redfern, Johnson, Yates, Pritchard, Wood Smith, Geddes and Nicholls. The opener having replied, the motion was put to the House and lost by four votes.

A meeting of the Society was held on the 18th inst., in the Middle Temple Common Room, Mr. F. B. Guedalla in the chair. Mr. J. Macmillan opened: "That this House would view with disapproval the passing into law of the Hairdressers' Sunday Closing Bill." Mr. F. W. Yates opposed. There also spoke Messrs. Redfern, Shanly, Ross, Wood-Smith, Bull, Iwi, Pritchard, Nicholl and Guedalla. The opener having replied, the motion was put to the House and carried by two votes.

Sheffield and District Law Students' Society.

A meeting of the above society was held in the Law Library, Bank Street, Sheffield, on the 12th inst., when the chair was taken by A. B. Thorneloe, Esq., honorary member.

The following was the subject of debate:—

"A on his deathbed, made a will; his wife was shortly expecting to be delivered of a child. The testator left all his estate to his wife and child in the proportions: if the child was a male, then two-thirds to the son and one-third to the widow; if a female, then one-half to the daughter and one-half to the widow. Testator died. The widow gave birth to twins, a son and a daughter." How is the estate to be divided? Does the widow take any share?

Mr. H. D. Popplewell supported by Mr. R. A. Slessor, spoke on behalf of the affirmative, and Mr. M. R. E. Swanwick, supported by Mr. R. S. Bramley, supported the negative.

The following members also spoke: Messrs. Scorah, Ibbetson, Glass, Ashton, Hoyland, Steele-Carr and Greaves.

After the chairman had summed up, the question was put to the vote whether or not the will would stand and the motion was lost.

A hearty vote of thanks to the chairman concluded the meeting.

The Selden Society.

TRIBUTE TO LORD FINLAY.

Lord Hanworth, the Master of the Rolls, presided at the annual general meeting of the Selden Society, held in the Council-room, Lincoln's Inn Hall, on Monday. The Selden Society was founded in 1887 to encourage the study and advance the knowledge of the history of the English law.

Referring to the death of Lord Finlay, Lord Hanworth said that they had lost a very distinguished member of the society. He was a member from 1900 and was vice-president from 1909 to 1911. Many of them had just come from the memorial service, and they all recognised in him a great and warm-hearted personal friend. To many of them he was a master of law and to all he was a pattern of what a courageous and zealous advocate ought to be. He never overstepped the mark, but fearlessly did his best for his client. Lastly, they knew him as a great judge, wise and patient.

Lord Hanworth paid a further tribute to the respect and prestige earned by Lord Finlay at the International Court at The Hague, and referred to his incisive power of examining into the most intricate cases of international rights.

There appeared to him, the chairman continued, to be a satisfactory and healthy account to be given of the work of the society in the past year. The number of members was 480, a number which he hoped would be increased if and when they increased their publications with greater regularity.

The annual report and accounts were adopted and Mr. R. F. Norton was declared Vice-President in succession to Professor W. S. Holdsworth, who had held that office for the past three years.

Law Association.

The monthly meeting of the directors was held at the Law Society's Hall, on the 7th inst., Mr. William Winterbotham in the chair. The other Directors present were: Mr. E. B. V. Christian, Mr. P. E. Marshall, Mr. J. R. H. Molony, Mr. W. M. Woodhouse and the secretary Mr. E. E. Barron. A sum of £177 was voted in relief, two applicants, widows of London solicitors, being in their eightieth year; and other general business was transacted.

The Hardwicke Society.

An ordinary meeting was held in the Middle Temple Common Room on Friday, the 15th inst., at the conclusion of the adjourned special general meeting held to consider a proposed alteration to the rules.

Mr. C. C. Gallagher, ex-Treasurer, moved: "That the Afghans are to be admired for their resistance to Western innovations." Mr. J. W. J. Cremlyn opposed the motion. The following also took part in the debate:—Mr. J. H. Menzies, Mr. Seager Berry, Mr. Ungoed Thomas, Mr. Newman Hall, Mr. Ives, Miss Prothero, Mr. Kennedy Skipton, the Hon. Secretary (Mr. Pearson), Mr. Sassoon-Benjamin, and the Vice-President (Mr. Ifor Lloyd). On a division the motion was carried by eighteen votes to six.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, the 19th inst. (Chairman, Miss D. C. Johnson), the subject for debate was: "That the case of *In re Houlder*, 1929, 1 Ch. 205, was wrongly decided." Mr. T. M. Jessup opened in the affirmative and Mr. W. M. Pleadwell seconded, whilst Mr. M. C. Batten opened in the negative, supported by Mr. C. Roberts. The following members having spoken, viz., Messrs. Horace W. Daniels, E. E. Pugh, and W. L. F. Archer, the opener replied, the Chairman summed up, and the motion, on being submitted to the meeting, was carried by two votes. There were nineteen members present.

Solicitors' Benevolent Association.

The monthly meeting of the board of directors of this association was held at The Law Society's Hall, Chancery-lane, on the 13th inst., Mr. Walter F. Cunliffe in the chair; the other directors present being Messrs. E. E. Bird, E. R. Cook, T. S. Curtis, E. F. Dent, A. G. Gibson, G. Humbert, C. G. May, H. A. H. Newington, Sir A. C. Peake (Leeds), Sir R. W. Poole, M. A. Tweedie, A. B. Urmston (Maidstone), and H. White (Winchester).

One thousand one hundred and thirty-one pounds was distributed in grants of relief; thirty new members were admitted; Mr. George W. Haines (Folkestone) was elected a director and other general business transacted.

Sussex Law Society.

Reviving a custom which had fallen into disuse since the war, The Sussex Law Society held a dinner at Brighton on Friday the 8th inst. The President, Mr. Harry B. Piper (Worthing), occupied the chair, and the company numbered about 125.

The Lord Chief Justice of England, who was attending the assizes at Lewes, had accepted an invitation to be present as the Society's guest, but owing to his recent attack of influenza, and to his desire not to interfere with the discharge of his duties, was unable to attend.

The toast of the Bench and the Bar was proposed by Mr. A. O. Jennings, the senior member of the Society present, and in the absence of the Lord Chief Justice, His Honour Judge William Moore Cann (who received many congratulations on the honour of knighthood recently conferred upon him) responded on behalf of the bench and Mr. James D. Cassels, K.C., M.P. (Recorder of Brighton), on behalf of the Bar. Mr. Eric R. Neve submitted the toast of "The Sussex Law Society," to which the President responded.

Amongst others present were the Recorder of Rye, Mr. A. C. Hillman (President of the Eastbourne Law Society), Dr. Walter Broadbent (Chairman of the Sussex Branch of the British Medical Association) and other representatives of professional bodies in Sussex.

Incorporated Accountants' Examinations.

The next examinations of candidates for admission to the Society of Incorporated Accountants and Auditors will be held on 29th and 30th April, and 1st and 2nd May, in London, Manchester, Cardiff, Leeds, Glasgow, Dublin, Belfast, Cape Town, Johannesburg and Durban. Women are eligible under the Society's regulations to qualify as incorporated accountants upon the same terms and conditions as men.

Particulars and forms are obtainable at the offices of the Society, Incorporated Accountants' Hall, Victoria Embankment, W.C.2.

These will be the first examinations held since Incorporated Accountants' Hall (formerly Astor House) was opened by H.R.H. The Duke of York.

South Eastern Circuit.

CONGRATULATORY DINNER TO MR. JUSTICE HUMPHREYS AND MR. JUSTICE MACNAGHTEN.

A congratulatory dinner was given on Thursday, the 7th inst., at the Hotel Cecil, by the South Eastern Circuit, to Mr. Justice Humphreys and Mr. Justice Macnaghten, when Mr. G. Thorn Drury, K.C., occupied the chair. Those present included: Lord Hanworth (Master of the Rolls), Mr. Justice Eve, Sir Henry Dickens (the Common Serjeant), Mr. Arthur Denman, Sir Patrick Hastings, Mr. E. W. Hansell, K.C., Sir Harry Marks, K.C., Mr. C. R. Algar (the Junior), Mr. F. T. Alpe, Mr. E. H. Tindal Atkinson, Mr. F. T. Barrington-Ward, K.C., Mr. D. C. Bartley, Mr. F. W. Beney, Sir H. Curtis Bennett, K.C., Mr. H. Bentwich, Mr. T. Beresford, Mr. M. Berryman, Mr. G. H. Beyfus, Mr. H. C. Bickmore, Mr. F. E. Bray, Mr. J. M. Buckley, Mr. A. T. Bucknill, Mr. Roland Burrows, Mr. J. D. Cassels, K.C., Mr. N. A. Cohen, Mr. C. A. Collingwood, Miss Colwill, Mr. E. H. Coumbe, Mr. A. Crew, Mr. H. G. L. Davidson, Mr. T. F. Davis, Mr. H. C. Dickens, Mr. C. Doughty, K.C., Mr. C. J. A. Doughty, Mr. J. F. Eastwood, Mr. J. P. Eddy, Mr. G. D. Edmondson, Mr. L. S. Fletcher, Mr. J. Flowers, K.C., Mr. R. Fortune, Mr. W. Frampton, Mr. W. B. Frampton, Mr. F. Gahan, Mr. J. C. Gatley, Mr. F. W. Gentle, Mr. A. W. Goodman, Mr. R. A. Gordon, K.C., Mr. W. W. Grantham, K.C., Mr. J. Q. Henriques, Mr. M. Hilbery, K.C., Mr. L. G. H. Horton-Smith, Mr. C. Howard, Mr. C. Humphreys, Mr. R. Jennings, Sir Duncan Kerly, K.C., Mr. A. H. King, Mr. G. F. Kingham, Mr. E. M. Konstam, K.C., Mr. A. M. Krougliakoff, Mr. C. D. B. Leggatt, Mr. C. W. Lilly, Mr. R. R. Ludlow, Mr. C. B. McClure, Mr. H. C. Marks, Mr. J. B. Melville, K.C., Mr. W. Monckton, Mr. W. H. Moresby, Mr. S. Cope Morgan, Sir Harold Morris, Mr. Roland Oliver, K.C., Mr. J. A. Pace, Mr. Frank Phillips, Mr. J. H. Pickup, Mr. C. M. Pitman, K.C., Mr. H. W. Potter, Mr. G. Pryor, Mr. G. G. Raphael, Miss Reuben, Mr. J. Ricardo, Mr. H. G. Robertson, Mr. H. D. Roome, Miss Stevenson, Mr. H. G. Strauss, Mr. J. Wells Thatcher, Mr. G. Thesiger, Mr. J. H. Watts, Mr. A. H. M. Wedderburn, Mr. H. Bensley Wells, Mr. E. Wetton, Miss Wheeler, Mr. C. Willoughby Williams, Mr. E. Jones Williams, and Mr. W. C. Willis, K.C.

After the usual loyal toasts the Chairman proposed "The Guests of Honour," to which The Hon. Sir Travers Humphreys and The Hon. Sir Malcolm Macnaghten replied. Sir Henry Curtis Bennett proposed "The Other Guests," and The Hon. Mr. Justice Eve replied. The "Circuit" was submitted by The Right Hon. Lord Hanworth and responded to by the Junior (Mr. Claudius R. Algar). Sir Patrick Hastings, K.C., proposed "the Chairman," to which Mr. Thorn Drury replied.

The London Solicitors' Golfing Society.

A complimentary dinner to the President, The Right Hon. Lord Riddell, was given by the Society at The Law Society's Hall on Monday, the 4th inst., when the chair was occupied by the Captain, Mr. Sydney Newman. The principal guests included Lord Riddell (guest of honour), the Home Secretary (The Rt. Hon. Sir William Joynson-Hicks, P.C.), Mr. Harry Knox (Master of the City of London Solicitors' Company), The Hon. Sir Harry T. Eve, The Hon. Sir A. F. C. C. Luxmoore, Sir N. Grattan-Doyle, M.P., Sir Michael O'Dwyer, G.C.I.E., K.C.S.I., Sir Herbert Austin (Clerk of the Central Criminal Court), Mr. H. S. Preston, LL.B., K.C. (Captain of the Bar Golfing Society), Lt.-Col. Sir Maxwell Hicks, C.B.E., Col. H. D. Foster MacGeagh, C.B.E., K.C. (Judge-Advocate General's Department), Mr. R. W. Woods, C.B.E., Solicitor to the Post Office, Sir Thomas Hughes, K.C., Mr. Clement Davies, K.C., Mr. Eugene Paul Bennett, V.C., M.C., Sir Philip Freeman, K.B.E., and Sir John Gilbert, K.B.E.

Among the members of the Society present were: Mr. Sydney Newman (Captain), Mr. H. Forbes White (hon. secretary and treasurer), Mr. R. M. Welsford (Vice-President), President of The Law Society, Mr. E. R. Cook (secretary of The Law Society), Sir H. G. Downer, Mr. C. V. Young, Mr. C. E. Stredwick, Mr. K. V. Dolleymore, Mr. H. Robson Sadler, Mr. R. P. Hamp, Mr. J. Woodhouse, J.P., Mr. W. M. Woodhouse, Mr. F. C. Morrison, Mr. D. Williams (Official Receiver), Mr. H. Royle (town clerk, Hammersmith), Mr. F. Fernihough (town clerk, Chiswick), Mr. Emrys Evans (town clerk, Stoke Newington), Mr. G. G. Buckeridge, Mr. C. F. Twist, Mr. R. P. Clowes, Mr. C. N. T. Jeffreys, Mr. J. A. Attenborough, Mr. R. O. J. Dallmeyer, Mr. W. R. Fisher, Mr. P. C. Atkins, LL.D., Mr. W. F. Smith, Mr. J. White, LL.D., Mr. E. A. Burnie, Mr. R. B. McDonald, Mr. C. F. Rowlands, Mr. E. Egerton Johnson, Mr. L. M. Clark, Mr. G. D. Hugh-Jones, Mr. Arnold Carter, Mr. P. A. Sandford, Mr. F. Evelyn Jones, Mr. W. R. Tucker, Mr. C. G. Adler, Mr. H. S. Pearce, Mr. R. H. King, Mr. J. A. N. Spice, Mr. L. W. Webster, Mr. G. A. Mant, Mr. J. S. Stooke-Vaughan, Mr. P. W. Russell, Mr. Malcolm Clark, Mr. A. H. Leathart, Mr. O. S. Flinn, Mr. M. Hyman Isaacs, Mr. E. Hyman Isaacs, Mr. J. W. Dickson, Mr. C. W. Cross and Mr. P. Lofts.

Mr. Sydney Newman (the Captain) welcomed Lord Riddell and referred to the many services he had rendered to the Society. Lord Riddell responded and said he was always pleased to do anything to stimulate interest in golf and particularly in The London Solicitors' Golfing Society.

The toast of "Our Guests" was proposed by Mr. W. H. Woodhouse, a member of the Society, and replied to by Sir William Joynson-Hicks, supported by Mr. H. S. Preston, K.C.

Mr. Justice Eve proposed "The Society," and Mr. H. Forbes White, the Honorary Secretary, replied.

In Parliament.

Progress of Bills.

House of Lords.

Northern Ireland Land Bill. Returned from Commons with Amendments agreed to 19th March.

Local Government (Scotland) Bill. Read a Second Time. 19th March.

Industrial Assurance and Friendly Societies Bill. Read a First Time. 19th March.

Factory and Workshop (Cotton Cloth Factories) Bill [H.L.]. Returned from Commons with Amendments agreed. 19th March.

Bridges Bill [H.L.]. Read the Third Time and sent to the Commons. 19th March.

Unemployment Insurance (Northern Ireland Agreement) Bill. Read a Second Time 20th March.

Local Government Bill. Read the Third Time and passed. 20th March.

House of Commons.

Unemployment Insurance (Northern Ireland Agreement) Bill. Read the Third Time and passed. 13th March.

Solicitors Acts (Consolidation) Bill. Read a Second Time and committed to a Standing Committee. 14th March.

Fire Brigade Pensions Bill. Read a Second Time and committed to a Standing Committee. 14th March.

Industrial Assurance and Friendly Societies Bill. Read the Third Time and passed. 15th March.

Railway (Air Transport) Bills. Committed to a Select Committee. 15th March.

Unemployment Insurance (Transitional Provisions Amendment) Bill. Read the Third Time and passed. 20th March.

House of Commons.

Questions to Ministers.

LUNACY LAWS.

Dr. DAVIES asked the Minister of Health if his attention has been drawn to the fact that, owing to a recent High Court case, medical men will not run the risk of certifying insane people; and does he propose to introduce legislation to deal with this situation, which is inimical to the best interests of the afflicted persons and the public?

Sir K. WOOD: My right hon. Friend's attention has been drawn to this case. He hopes that any legislation which may be introduced to amend the Lunacy Laws will include a provision giving effect to the recommendation on this point of the Royal Commission on Lunacy and Mental Disorder. 13th March.

SHOPS (HOURS OF EMPLOYMENT) BILL.

Mr. TAYLOR asked the Prime Minister whether he will give facilities for the passing into law during the present Session of Parliament of the Shops (Hours of Employment) Bill; or whether His Majesty's Government proposes to introduce legislation in the present Session to restrict the hours of labour for shop workers, waitresses, and barmaids?

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT (Sir William Joynson-Hicks): I have been asked to reply to this question. I have examined the Measure to which the hon. Member refers and which he has himself introduced, and I do not see that it has the effect of definitely restricting the hours of employment of shop assistants. What it proposes to do is—roughly speaking—to provide that hours worked beyond forty-eight shall be treated as overtime and

paid for as such—a very different proposal. As the hon. Member is aware, the Government have already, in the Shops Act of last Session, passed a Measure which indirectly but effectively limits the hours of employment of workers in shops. 13th March.

PUBLIC OFFICIALS (TENURE).

Dr. DAVIES asked the Minister of Health if his attention has been drawn to the decision of Mr. Justice McCardie in the King's Bench Division in *Brown* v. *Dagenham Urban District Council*, which affects the security of tenure of public officials by allowing their dismissal at any time at the pleasure of the body employing them, irrespective of any contract as to notice of termination of appointment; and what action, if any, he proposes to take to secure the position of officers appointed under the Public Health Acts in view of the state of the law revealed by this decision?

Sir K. WOOD: My right hon. Friend is aware of this case, and the matter is receiving his consideration. 13th March.

HAIRDRESSERS' SUNDAY CLOSING BILL.

Mr. R. MORRISON asked the Prime Minister whether, in view of the fact that boys under sixteen years of age are employed in hairdressers' shops for seventy hours per week, he will grant facilities for the Report and Third Reading stages of the Hairdressers' Sunday Closing Bill, which would effect a reduction of five hours and upwards per week?

Sir W. JOYNSON-HICKS: I have been asked to reply. The Government are not able to find time for facilities for this Bill. 13th March.

ELECTORAL REGISTER.

Mr. R. MORRISON asked the Home Secretary whether he has any information that the registers of Parliamentary voters will be available in all districts before or not later than 1st May?

Sir W. JOYNSON-HICKS: I have no doubt that the registers will be ready by the 1st May, and I have asked registration officers to use every effort to make them available at a still earlier date. 13th March.

Rules and Orders.

COLONIAL STOCK ACT, 1900.
(63 AND 64 VICT. CH. 62.)
NOTICE.

ADDITION TO LIST OF STOCKS UNDER SECTION 2.

Pursuant to Section 2 of the Colonial Stock Act, 1900, the Lords Commissioners of His Majesty's Treasury hereby give notice that the provisions of the Act have been complied with in respect of the undermentioned stock registered or inscribed in the United Kingdom:—

Southern Rhodesia 4½ per cent. Inscribed Stock, 1958-68.

The restrictions mentioned in Section 2, Sub-section 2, of the Trustee Act, 1893, apply to the above stock (see Colonial Stock Act, 1900, Section 2).

TREASURY MINUTE, DATED JANUARY 2, 1928, PRESCRIBING SECURITIES UNDER SECTION 191 (2) OF THE LAW OF PROPERTY ACT, 1925 (15 & 16 GEO. 5, c. 20).

My Lords read Section 191 of the Law of Property Act, 1925, which provides, in respect of the redemption of certain rents, that where the rent is perpetual and was reserved on a sale, or was made payable under a grant or licence for building purposes the redemption money shall be such sum as would (according to the average price, at the date of redemption, of such Government securities as may for the time being be prescribed by the Treasury) purchase sufficient of such Government securities to yield annual dividends equal to the amount of the yearly rent redeemed.

My Lords accordingly hereby prescribe the following securities in lieu of those prescribed by the Treasury Minute dated 1st February, 1926,(*) as the securities which, until further notice, shall be taken into account in transactions falling under Sub-section 2 of the Section above cited:—

2½ per cent. Consolidated Stock.
4 per cent. Consolidated Stock.
3 per cent. Local Loans Stock.
3½ per cent. Conversion Stock.

* S.R. & O. 1928, No. 1133 (not printed in the S.R. & O. series).

Legal Notes and News.

Honours and Appointments.

Mr. B. A. COLLINGTON, Chief Clerk of the Tower Bridge Police-court, has been appointed Chief Clerk of the Clerkenwell Police-court, in succession to the late Mr. John Wilson. Mr. G. PEGG, Chief Clerk at Lambeth, becomes Chief Clerk at Tower Bridge, and Mr. J. B. EDWARDS, Senior Second Clerk at Bow-street, has been promoted Chief Clerk at Lambeth. Mr. J. H. CRAINE becomes Senior Second Clerk at Bow-street.

Mr. ROBERT H. WRIGHT, Solicitor, Town Clerk, Berwick-on-Tweed, has been appointed Town Clerk of Warwick, in succession to Mr. Walter Heap, whose appointment as Town Clerk of Lytham-St.-Annes, we announced recently. Mr. Wright was admitted in 1922.

Mr. HENRY DE LANCEY HOUSEMAN, Solicitor, of the firm of Houseman & Co., of 6, New-court, Carey-street, W.C.2, has been appointed a Justice of the Peace for the County of London. He was admitted in 1892.

Mr. D. HOWELL JONES, Solicitor, Llanrwst, has been appointed Clerk to the River Conway Fishery Board, in succession to the late Captain C. T. Allard, who has held the office for nearly fifty years. Mr. Jones, who was admitted in 1916, also holds the appointments of Clerk to the Justices for the Llanwrst Division, and Clerk to the Conway Valley Drainage Board.

Wills and Bequests.

Mr. Algernon Douglas Vandamm, Solicitor, of Compayne-gardens, Hampstead, left estate of the gross value of £16,716.

Mr. Arthur Robinson Law, solicitor, of Victoria-road, Barnstaple, who died on 30th November, aged seventy-five, left estate of the gross value of £13,199. He left £100 to Lucy Hill, "for the purpose of maintaining and taking care of any animal or animals, bird or birds, of mine, and I trust she will not part with them," but if she is unable or unwilling to carry out his wishes he revoked such legacy and directed that such animals or birds shall be destroyed; £500 to St. Dunstan's; £500 to the Treloar Homes for Crippled Children, Alton, Hants; £750 in trust to place a memorial window or windows in the west end of the Church of Holy Trinity, Barnstaple, in memory of his father and mother and their family, and he desired to be buried in the churchyard of Holy Trinity, Barnstaple, and left £250, the income therefrom to be applied for the upkeep of the fabric of the church and the churchyard; £100 to the vicar and churchwardens of Holy Trinity, Barnstaple, in trust to distribute the income thereof on the anniversary of his death among such poor persons of the parish of Holy Trinity, as they may determine, such distribution to be made "within sight of my family grave in the churchyard and in as simple and unostentatious a manner as possible"; the residue of the property, subject to a life interest, to Nazareth House, Hammersmith, W.

THE COUNCIL OF STATE.

DUBLIN PROTEST AGAINST LACK OF CONSULTATION.

The Star, a weekly newspaper which is published in Dublin under the authority of the Free State Government, makes the following statement in its current issue:—

The failure of the British Government to consult the Governments of the other nations in the Commonwealth as to the appointment of a Council of State recently to take the place of the King during his Majesty's illness has drawn, it is understood, very strong protests from the Government of the Saorstat. The Government here refused to allow the signature of any but members of the Royal Family upon any document of state originating in Dublin, and made it perfectly clear that, should future circumstances warrant the appointment of a body to represent the King, the Saorstat would regard it as essential to have the body constituted after consultation with and by the authority of all the co-equal states in the Commonwealth. It was also pointed out that a Council of State should not include politicians or other notables of any one state, but should consist solely of members of the Royal Family. On the quaintly worded documents issued in the name of the King recalling Professor Smiddy from Washington and appointing Mr. MacWhite to be Irish Minister there, the only signatures are those of the Queen, the Prince of Wales, and the Duke of York. To this extent the Saorstat has upheld its view. It is stated that this question of Regency will form the subject of discussion at the next Imperial Conference, when no doubt a decision will be taken in accordance with the views formulated by the Saorstat in the present instance.

THE EQUITY AND LAW LIFE ASSURANCE SOCIETY.

At the annual general meeting of the above society, held at No. 18, Lincoln's Inn Fields, on Tuesday, the 19th inst., it was reported that the new assurances amounted to £2,714,239 under 573 policies of which £1,880,539 has been retained by the society, whilst the gross new premiums amounted to £1,039,429. The amount of total assurances in force at the end of the year was £17,600,850; the profit on reversions falling in during the year amounted to £38,777; and the gross rate of interest earned on the entire funds, excluding reversions, was £5 3s. 11d. The corresponding net rate, after deduction of income tax, was £4 6s. 6d. The claims by death under 179 policies, assuring 123 lives, amounted to £408,508 and 203 endowment assurances, amounting to £158,626 matured. The total funds amounted at the end of the year to £8,375,303.

"A FULL-TIME TOWN CLERK FOR CREWE."

We are informed that when the recommendation of the General Purposes Committee of the Crewe Town Council, to which reference was made in our issue of the 9th inst., came up before the Council for confirmation, it was not confirmed.

SOLICITOR TO THE LONDON COUNTY COUNCIL.

The post of solicitor to the London County Council is at present vacant owing to the recent death of Mr. Thomas Bullivant, and the General Purposes Committee is recommending that the salary (hitherto £1,500 rising to £1,700) be £2,000 a year.

CHARM OF A MINIATURE LINER CABIN.

An exact model of a ship's cabin *de luxe* is the latest addition to the windows of London's shipping offices. The model represents the standard cabin in the Blue Star liners to South America.

The model, which was made in Northampton, took three months to complete weighs 2 cwt., and is exactly one-quarter of the size of a cabin in a Blue Star liner, every minute detail of the original cabin being faithfully reproduced.

SIGNATURE OF DOMINION DOCUMENTS.

We understand that only the Royal members of the Council of State, which is acting for the Crown during the King's illness, are in the habit of signing such documents as concern the Dominion Governments and Parliaments.

This practice is being strictly observed, lest the signatures of Mr. Baldwin and Lord Hailsham, if appended, should be misconstrued as an interference by the Home Government in the affairs of our self-governing Dominions.

ELECTION OF SHERIFFS.

The election of Sheriffs of the City of London will be held on Mid-summer Day, at the Guildhall. Mr. Alderman W. P. NEAL, Solicitor, the Senior Alderman eligible, and Major F. H. BOWATER, have come forward as candidates, but we understand there is not likely to be any opposition. Mr. Alderman Neal was admitted in 1888.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday, Mar. 25	Mr. Jolly	Mr. More	Mr. Bloxam	Mr. More
Tuesday .. 26	Hicks Beach	Ritchie	More	*Hicks Beach
Wednesday 27	Blaker	Bloxam	Hicks Beach	Bloxam
Thursday.. 28	More	Jolly	Bloxam	More
	Mr. Justice Maugham.	Mr. Justice Astbury.	Mr. Justice Tomlin.	Mr. Justice Clauson.
Monday, Mar. 25	Mr. Hicks Beach	Mr. Blaker	Mr. *Jolly	Mr. Ritchie
Tuesday .. 26	*Bloxam	Jolly	Ritchie	*Blaker
Wednesday 27	*More	Ritchie	*Blaker	*Jolly
Thursday.. 28	Hicks Beach	Blaker	Jolly	Ritchie

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The Easter Vacation will commence on Friday, the 29th day of March, 1929, and terminate on Tuesday, the 2nd day of April, 1929, inclusive.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 5½%. Next London Stock Exchange Settlement Thursday, 11th April, 1929.

	Middle Price 20th Mar.	Interest Yield.			Yield with Redemption.		
		£	s.	d.	£	s.	d.
English Government Securities.							
Consols 4% 1957 or after	84¾	4	14	6	—		
Consols 2½%	55½xd	4	10	6	—		
War Loan 5% 1929-47	102	4	18	0	—		
War Loan 4½% 1925-45	97½	4	12	6	4	13	6
War Loan 4% (Tax free) 1929-42	99¾xd	3	19	0	3	18	6
Funding 4% Loan 1960-1990	88	4	11	0	4	12	0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	91¼	4	7	9	4	7	6
Conversion 4½% Loan 1940-44	97½	4	12	4	4	14	6
Conversion 3½% Loan 1961	76	4	12	0	—		
Local Loans 3% Stock 1921 or after	63½	4	14	6	—		
Bank Stock	258	4	14	0	—		
India 4½% 1950-55	90½	4	19	6	5	3	0
India 3½%	67½	5	4	0	—		
India 3%	57½	5	5	0	—		
Sudan 4½% 1939-73	94	4	15	9	4	16	6
Sudan 4% 1974	86	4	13	0	4	14	0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years)	82½	3	12	9	4	12	6
Colonial Securities.							
Canada 3% 1938	86	3	9	6	4	17	6
Cape of Good Hope 4% 1916-36	92xd	4	7	0	5	7	0
Cape of Good Hope 3½% 1929-49	80	4	7	6	5	0	0
Commonwealth of Australia 5% 1945-75	99	5	2	0	5	2	0
Gold Coast 4½% 1956	96	4	13	9	4	16	6
Jamaica 4½% 1941-71	94xd	4	15	6	4	16	0
Natal 4% 1937	91xd	4	7	11	5	7	0
New South Wales 4½% 1935-45	90	5	0	0	5	8	0
New South Wales 5% 1945-65	98	5	2	0	5	3	0
New Zealand 4½% 1945	95	4	15	0	4	17	6
New Zealand 5% 1946	102	4	18	0	4	16	0
Queensland 5% 1940-60	96xd	5	4	0	5	5	0
South Africa 5% 1945-75	101	4	18	0	4	16	0
South Australia 5% 1945-75	98	5	2	0	5	2	0
Tasmania 5% 1945-75	98	5	2	0	5	2	0
Victoria 5% 1945-75	98	5	2	0	5	2	0
West Australia 5% 1945-75	98	5	2	0	5	2	0
Corporation Stocks.							
Birmingham 3% on or after 1947 or at option of Corporation	64	4	13	6	—		
Birmingham 5% 1946-56	102xd	4	18	0	4	17	0
Cardiff 5% 1945-65	101	4	19	0	4	19	0
Croydon 3% 1940-60	69xd	4	6	9	4	19	0
Hull 3½% 1925-55	78	4	9	9	4	19	0
Liverpool 3½% Redeemable at option of Corporation	74xd	4	14	6	—		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	53	4	14	0	—		
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63	4	15	3	—		
Manchester 3% on or after 1941	63	4	15	0	—		
Metropolitan Water Board 3% 'A' 1963–2003	64xd	4	13	9	—		
Metropolitan Water Board 3% 'B' 1934–2003	64	4	13	6	—		
Middlesex C. C. 3½% 1927-47	83	4	4	6	4	17	0
Newcastle 3½% Irredeemable	73	4	16	0	—		
Nottingham 3% Irredeemable	63	4	13	6	—		
Stockton 5% 1946-66	102	4	18	0	4	18	0
Wolverhampton 5% 1945-56	103	4	17	0	4	17	0
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	81½xd	4	18	0	—		
Gt. Western Rly. 5% Rent Charge	98	5	2	0	—		
Gt. Western Rly. 5% Preference	92½xd	5	4	0	—		
L. & N. E. Rly. 4% Debenture	75	5	6	3	—		
L. & N. E. Rly. 4% 1st Guaranteed	72	5	11	0	—		
L. & N. E. Rly 4% 1st Preference	63½	6	6	0	—		
L. Mid. & Scot. Rly. 4% Debenture	78½	5	2	0	—		
L. Mid. & Scot. Rly. 4% Guaranteed	74½xd	5	7	6	—		
L. Mid. & Scot Rly. 4% Preference	69xd	5	16	0	—		
Southern Railway 4% Debenture	79	5	1	0	—		
Southern Railway 5% Guaranteed	97xd	5	3	0	—		
Southern Railway 5% Preference	89½xd	5	12	0	—		

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FOR SALE.—Law Journal Reports from January, 1864 to October, 1927 (unbound).—Apply, Eldridge, Solicitor, 22 St. Michael's-street, Oxford.

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MISS MARY LOUISA GORDON, formerly of Tunbridge Wells, later of Brighton, died 24th February last. Any person who has knowledge or custody of the WILL of the above is asked to communicate at once with Box 84, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WILL any solicitor or other person having in his possession any WILL made by ALFRED WILFRED JOSEPH REYNOLDS, of 30, Milner-road, Kingston-on-Thames, deceased, kindly communicate at once with Morley, Shirreff & Co., Solicitors, 53, Gresham House, Old Broad-street, London, E.C.2.

NEWMAN.—If any of the Children of the late SUSAN REBECCA NEWMAN (née Baker) will communicate with Mooring, Aldridge & Haydon, Solicitors, Westover Chambers, Bournemouth, they will be obliged.

WILLIAM THOMAS WILLIAMS, deceased.—Information is required as to the persons entitled on the intestacy of WILLIAM THOMAS WILLIAMS, licensee of The Crooked Billet public-house, Wimbledon, who died there on the 30th May, 1880.—Godfrey J. Freeman, 4, New-court, Carey-street, London, W.C.2.

CHARLES HARBORD COOK, deceased.—Late of 8, Clifford-street, Bond-street, W.1.—Any Solicitor or other person holding a Will of the above deceased or having knowledge of one having been signed is requested to communicate with Vallance & Vallance, 20, Essex-street, Strand, London, W.C.2, Solicitors for the next-of-kin.

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